



governmentattic.org

"Rummaging in the government's attic"

Description of document: Each Environmental Protection Agency (EPA) Inspector General (OIG) investigation or review regarding EPA Administrator Scott Pruitt 2018-2019

Requested date: 09-May-2020

Release date: 13-July-2020

Posted date: 18-April-2022

Source of document: FOIA Request
National FOIA Office
Inspector General
US Environmental Protection Agency
1200 Pennsylvania Avenue NW (2310A)
Washington, DC 20460
[FOIAonline](#)

Preferred during COVID-19 pandemic:
[FOIAonline](#)

The governmentattic.org web site ("the site") is a First Amendment free speech web site and is noncommercial and free to the public. The site and materials made available on the site, such as this file, are for reference only. The governmentattic.org web site and its principals have made every effort to make this information as complete and as accurate as possible, however, there may be mistakes and omissions, both typographical and in content. The governmentattic.org web site and its principals shall have neither liability nor responsibility to any person or entity with respect to any loss or damage caused, or alleged to have been caused, directly or indirectly, by the information provided on the governmentattic.org web site or in this file. The public records published on the site were obtained from government agencies using proper legal channels. Each document is identified as to the source. Any concerns about the contents of the site should be directed to the agency originating the document in question. GovernmentAttic.org is not responsible for the contents of documents published on the website.



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

OFFICE OF
INSPECTOR GENERAL

July 13, 2020

Re: Freedom of Information Act Request (EPA-2020-004637) – Final Disposition Letter

This letter responds to your Freedom of Information Act request to the Environmental Protection Agency Office of Inspector General dated May 9, 2020, seeking disclosure of records “for each EPA Office of Inspector General investigation or review regarding EPA Administrator Scott Pruitt...created during the period January 1, 2018 to the present.”

Documents responsive to your request are available for download via FOIAonline by searching for your request tracking number at <https://foiaonline.gov>. Some redactions of information have been made to the documents pursuant to the FOIA, 5 U.S.C. § 552, Subsections (b)(6), (b)(7)(C), and (b)(7)(E).

Exemption 6 exempts from disclosure any information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Exemption 7(C) provides protection for personal information in law enforcement records the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. The names of individuals and any information which may identify them have been withheld pursuant to both Exemptions 6 and 7(C).

Exemption 7(E) allows agencies to protect from disclosure all law enforcement information that would disclose techniques and procedures for law enforcement investigations or prosecutions or which would disclose guidelines for law enforcement investigation or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may appeal this decision by email at oig_foia@epa.gov, or by mail to the Counsel to the Inspector General, Office of Counsel, Office of Inspector General, 1200 Pennsylvania Avenue NW, Mail Code (2411T), Washington, D.C. 20460, or through FOIAonline if you are an account holder. The OIG will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will

be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal."

Additionally, you may seek dispute resolution services from either the EPA FOIA Public Liaison (hq.foia@epa.gov; 202-566-1667) or the Office of Government Information Services (OGIS). OGIS serves as a bridge between FOIA requesters and agencies and can be reached by email at ogis@nara.gov, by phone at 1-877-684-6448, or by fax at (202) 741-5769.

If you have any questions concerning this matter, you may contact me at (202) 566-1512 or oig_foia@epa.gov.

Sincerely,

**SCOTT
LEVINE**

Scott Levine
Associate Counsel & OIG FOIA Officer

 Digitally signed by
SCOTT LEVINE
Date: 2020.07.13
15:26:20 -04'00'

Enclosures via FOIAonline



U.S. ENVIRONMENTAL PROTECTION AGENCY

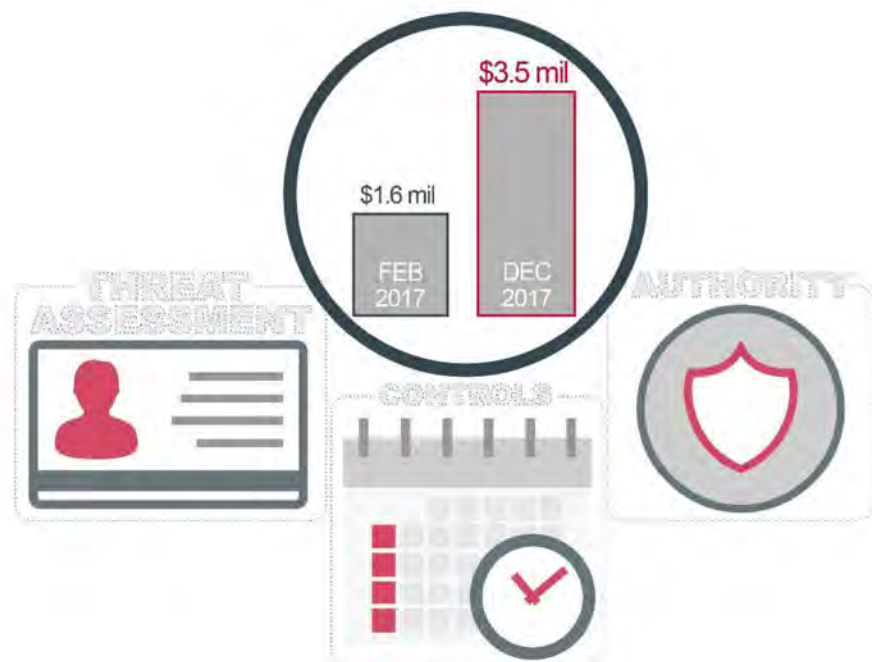
OFFICE OF INSPECTOR GENERAL

Hotline Report:
Operating efficiently and effectively

EPA Asserts Statutory Law Enforcement Authority to Protect Its Administrator but Lacks Procedures to Assess Threats and Identify the Proper Level of Protection

Report No. 18-P-0239

September 4, 2018



Report Contributors:

John Trefry
Jean Bloom
Philip J. Cleveland

Abbreviations

CID	Criminal Investigation Division
EPA	U.S. Environmental Protection Agency
GAO	U.S. Government Accountability Office
IBC	U.S. Department of the Interior's Interior Business Center
LEAP	Law Enforcement Availability Pay
MARS	Monthly Activity Reporting System
OCEFT	Office of Criminal Enforcement, Forensics and Training
OCFO	Office of the Chief Financial Officer
OECA	Office of Enforcement and Compliance Assurance
OGC	Office of General Counsel
OIG	Office of Inspector General
PSD	Protective Service Detail
SA	Special Agent
SAC	Special Agent in Charge
U.S.C.	United States Code

Cover Image: The image shows how the PSD incurred over \$3.5 million in costs for the 11-month period of February 1, 2017, through December 31, 2017—an increase of over 110 percent compared to the prior 11-month period's costs of \$1.6 million.

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

EPA Inspector General Hotline

1200 Pennsylvania Avenue, NW (2431T)
Washington, DC 20460
(888) 546-8740
(202) 566-2599 (fax)
OIG_Hotline@epa.gov

Learn more about our [OIG Hotline](#).

EPA Office of Inspector General

1200 Pennsylvania Avenue, NW (2410T)
Washington, DC 20460
(202) 566-2391
www.epa.gov/oig

Subscribe to our [Email Updates](#)
Follow us on Twitter [@EPAoig](#)
Send us your [Project Suggestions](#)



At a Glance

Why We Did This Audit

The U.S. Environmental Protection Agency (EPA) Office of Inspector General received a hotline complaint that alleged timekeeping irregularities and potential salary cap violations by members of the EPA Administrator's Protective Service Detail (PSD). The PSD provides physical protection and protective escorts to the Administrator. The complaint alleged that PSD agents were not working their complete 8-hour shifts nor their required 2-hour average overtime requirement for Law Enforcement Availability Pay. In addition, the complaint alleged PSD agents may have exceeded the biweekly and/or annual pay cap limitations set by 5 U.S.C. § 5547(a) and (b), *Limitation on Premium Pay*.

We initiated this audit to determine whether the Administrator's PSD has adequate controls for the scheduling, approving and monitoring of employee time. Our internal control assessment expanded the audit to include a review of the agency's law enforcement authority.

This report addresses the following:

- *Operating efficiently and effectively.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of [OIG reports](#).

EPA Asserts Statutory Law Enforcement Authority to Protect Its Administrator but Lacks Procedures to Assess Threats and Identify the Proper Level of Protection

What We Found

Without a legal opinion, we could not determine whether PSD agents maintained law enforcement authority to provide protective services for the EPA Administrator. According to the U.S. Government Accountability Office, only two federal agencies—the U.S. Secret Service and the U.S. Department of State—have statutory authority to protect executive branch officials.

Many agencies rely on other authorities to provide protection to their officials, such as having their protective personnel deputized by the U.S. Marshals Service. However, a recent EPA Office of General Counsel legal opinion, prepared in response to a recommendation in this report, asserts that the EPA has statutory law enforcement authority for its protective service.

We found that the PSD has no final, approved standard operating procedures that address the level of protection required for the Administrator or how those services are to be provided. The failure to have effective and current standard operating procedures can result in the organization having unclear lines of authority, inconsistent practices, inappropriate or inadequate staffing, and excessive or unnecessary costs. For example, the PSD incurred over \$3.5 million in costs from February 1, 2017, through December 31, 2017—an increase of over 110 percent compared to the prior period's costs of \$1.6 million—without documented justification.

We also found that PSD agents worked overtime without proper authorization, resulting in improper payments of \$106,507 between January 2016 and March 2017. Additionally, the Office of General Counsel incorrectly terminated a debt owed by a PSD agent, resulting in the agent exceeding the annual pay cap.

Failure to properly justify the level of protective services provided to the Administrator has allowed costs to increase from \$1.6 million to \$3.5 million in just 11 months.

Recommendations and Agency Response

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance implement the Office of General Counsel opinion through new policies, procedures and/or guidance that define the amount of time PSD agents must spend on investigating environmental crimes to obtain statutory law enforcement authority and how the time will be monitored and documented by supervisors. Also, we recommend that the EPA complete a threat analysis on a regular basis to identify the proper protection required for the Administrator. Further, we recommend that the EPA create and implement comprehensive policies, procedures and standard operating procedures for all PSD operations. The agency took or agreed to take sufficient corrective actions for four of our 12 recommendations, but the remaining eight remain unresolved.



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

THE INSPECTOR GENERAL

September 4, 2018

MEMORANDUM

SUBJECT: EPA Asserts Statutory Law Enforcement Authority to Protect Its Administrator but Lacks Procedures to Assess Threats and Identify the Proper Level of Protection
Report No. 18-P-0239

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, reading "Arthur A. Elkins Jr.", is placed to the right of the "FROM:" line.

TO: Susan Bodine, Assistant Administrator
Office of Enforcement and Compliance Assurance

Holly Greaves, Chief Financial Officer

Matthew Leopold, General Counsel

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY16-0265. This report contains findings that describe the problems the OIG has identified and the corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

The agency took or provided acceptable corrective actions for Recommendations 1, 2, 9 and 10 of this report, and no further response is required for those recommendations. However, the remaining eight recommendations are unresolved. In accordance with EPA Manual 2750, the resolution process begins immediately with the issuance of the report. We are requesting that the Assistant Administrator for Enforcement and Compliance Assurance, Chief Financial Officer, and General Counsel meet within 30 days with the OIG's Assistant Inspector General for Audit and Evaluation. If resolution is still not reached, the applicable agency office is required to complete and submit a dispute resolution request to the appropriate official to continue resolution.

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

Table of Contents

Chapters

1	Introduction	1
	Purpose	1
	Background.....	1
	Responsible Offices	3
	Prior Audit Report	3
	Scope and Methodology	3
	Agency Comments and OIG Evaluation	4
2	EPA Asserts It Has Statutory Law Enforcement Authority to Protect the EPA Administrator	5
	Powers of the EPA Under Federal Law	5
	Past Agency Efforts to Establish Law Enforcement Authority for PSD.....	6
	Office of General Counsel Legal Opinion Regarding PSD.....	7
	Conclusion	7
	Recommendations	8
	Agency Comments and OIG Evaluation	8
3	PSD Lacks Standard Operating Procedures to Address the Level of Protection Required for the Administrator	9
	Standard Operating Procedures.....	9
	Level of Protection	10
	GAO and Other Reports Concerning Level of Protection	11
	Cost of Protective Services Increasing	12
	Conclusion	12
	Recommendations	13
	Agency Comments and OIG Evaluation	13
4	Authorization of PSD Overtime Did Not Follow Policy	16
	Authorization and Approval of Overtime	16
	Improper Payments.....	17
	Conclusion	18
	Agency Actions	18
	Recommendations	18
	Agency Comments and OIG Evaluation	19

5	PSD Did Not Follow Policy for Recording and Monitoring Law Enforcement Availability Pay Hours	20
	Time-and-Attendance and Management Information Systems	20
	Policy Not Followed	21
	Conclusion	21
	Agency Comments and OIG Evaluation	21
6	Payment Made in Excess of Statutory Pay Limit	22
	Debt Collection Notice	22
	Waiver Determination	23
	Management Alert	23
	Conclusion	24
	Recommendations	24
	Agency Comments and OIG Evaluation	25
	Status of Recommendations and Potential Monetary Benefits	26

Appendices

A	OGC Legal Opinion Regarding Protective Service Detail	28
B	Initial Agency Response to Draft Report	37
C	Agency Response to Revised Recommendations	50
D	Distribution	54

Chapter 1

Introduction

Purpose

As a result of a hotline complaint, the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) conducted an audit of the EPA Administrator's Protective Service Detail (PSD). The complaint alleged timekeeping irregularities and potential salary cap violations by agents assigned to the Administrator's PSD. The complaint also alleged that PSD agents were not working their complete 8-hour shifts nor their required 2-hour average overtime requirement for Law Enforcement Availability Pay. In addition, the complaint alleged that PSD agents may be exceeding the biweekly and/or annual pay cap limitations set by law.

The objective of our audit was to determine whether the PSD has adequate controls for the scheduling, approving and monitoring of employees' time. Our internal control assessment expanded the audit to include a review of the agency's law enforcement authority.

Background

On March 2, 2001, then President George W. Bush issued an order titled *Authorization for Home-To-Work Transportation*, which applied to the EPA Administrator and other federal officials. The order authorized transportation of the EPA Administrator to and from work "in a government vehicle from her residence to her place of employment. ..." The authorization was issued under 31 U.S.C. 1344(b)(1)(C) - Public Law 99-950, as amended.

On September 27, 2001, the EPA Administrator delegated responsibility for protective services to the agency's Office of Criminal Enforcement, Forensics and Training (OCEFT), within the Office of Enforcement and Compliance Assurance (OECA). This delegation resulted from an internal EPA meeting held to discuss the ability of the agency's various organizations to provide protective services for the Administrator following the events of September 11, 2001. Prior to 2001, protective service functions had not received significant attention within the EPA.

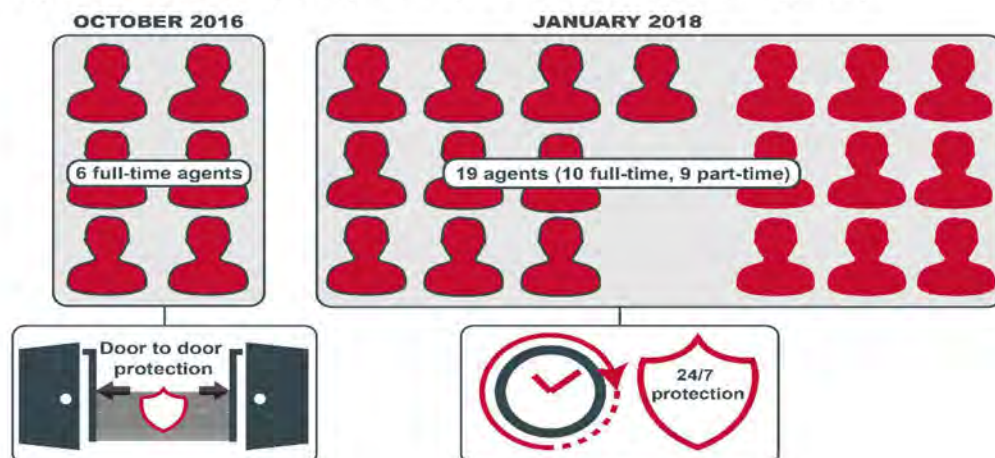
OCEFT was identified as the organization most capable of providing security for the Administrator because OCEFT had a number of agents who were former members of the U.S. Secret Service, were authorized to carry firearms, and were in a dispersed field structure. This decision resulted in the creation of the PSD. At that time, the core mission of OCEFT was (and remains) the investigation of environmental crimes, and the new PSD activities were generally viewed as ancillary.

In the *Report of the Management Review of the Office of Criminal Enforcement, Forensics and Training* (November 2003), a team led by the Deputy Regional Administrator for Region 4 made recommendations for improvements to OECA. One of the recommendations was that the agency revisit how it implements protective services for the Administrator—specifically, the decision on what level of protection is needed for the Administrator and how to provide that protection. The recommendation stated that the agency should fund OCEFT above and beyond its core mission of criminal environmental investigations, provide adequate training and equipment for those conducting investigations, and make every effort to minimize the effect of protective services on the work of Special Agents investigating environmental cases.

The operating procedures for the Administrator’s PSD are outlined in an October 2015 Memorandum of Understanding between the Office of the Administrator and OCEFT. Under this agreement, the Office of the Administrator agrees to provide a copy of the Administrator’s schedule and travel plans to the PSD as far in advance as practical for planning purposes and agrees to supplement PSD travel resources as required based on the level of travel required by the Administrator. OCEFT agrees to manage the day-to-day operations and that all law enforcement officers comply with applicable policies and procedures.

As of October 2016, when the PSD was providing Portal-to-Portal (door to door)¹ protection for Administrator McCarthy, it employed six full-time agents, but the Director of OCEFT believed it required eight agents to be fully staffed. Until the Administrator Pruitt’s departure in July 2018, the PSD was comprised of 19 agents to provide 24-hour/7-days-a-week protection for the Administrator. See Figure 1.

Figure 1: PSD staffing comparison (October 2016 and January 2018)



Source: EPA OIG image.

¹ Portal-to-Portal protection relates to transportation of the Administrator to and from work in a government vehicle from their residence to their place of employment.

Responsible Offices

OCEFT, within OECA, has overall responsibility for the PSD. This includes monitoring the budget and ensuring adequate resources are available as needed. The Office of the Chief Financial Officer (OCFO) maintains a Human Resources and Payroll Customer Service Help Desk that aids with human resources, payroll, and time-and-attendance issues.

Prior Audit Report

During our audit, we identified an unusual pay adjustment for \$23,413 paid to a member of the PSD. As a result, we issued a management alert report on September 27, 2017, *Management Alert: Controls Failed to Prevent Employee from Receiving Payment in Excess of Statutory Limit* (Report No. 17-P-0410). Our purpose was to notify the agency that an internal control weakness resulted in an unauthorized payment to a PSD agent on January 17, 2017. That prior report is currently unresolved. Chapter 6 of this current report, “Payment Made in Excess of Statutory Pay Limit,” provides additional details.

Scope and Methodology

We conducted this audit from September 2016 to May 2018, in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions presented in this report.

The OIG’s Office of Audit and Evaluation, which conducted this audit, is independent of the OIG’s Office of Investigations. The investigators do not participate in audits and have not participated in this audit of the security detail.

To address the hotline allegations and determine whether the PSD had adequate controls for the scheduling, approving and monitoring of employees’ time, we performed the following:

- Obtained an understanding of internal controls for PSD time and attendance.
- Compared hours identified in OCEFT’s Monthly Activity Reporting System (its management information system) with hours identified in PeoplePlus (the agency’s time-and-attendance system).
- Interviewed OCEFT management, PSD agents, and the former Chief of Staff to obtain an understanding on how the PSD services are determined.

- Reviewed regulations and statutes related to the powers of EPA law enforcement officers.
- Obtained cost information related to PSD services.

Agency Comments and OIG Evaluation

The agency suggested the final report clarify the continued core mission of OCEFT, and modify the report to reflect that the total number of PSD agents is 19. The OIG incorporated the proposed changes.

Chapter 2

EPA Asserts It Has Statutory Law Enforcement Authority to Protect the EPA Administrator

In 2000, the U.S. Government Accountability Office (GAO) concluded that only two entities—the U.S. Secret Service and U.S. Department of State—have statutory law enforcement authority to protect executive branch officials. Law enforcement authority may also be obtained through such means as deputation by the U.S. Marshals Service. Without law enforcement authority, protective service personnel in an agency cannot make arrests, conduct investigations and carry a firearm. We could not determine whether the PSD agents maintained law enforcement authority to provide protective services for the EPA Administrator. This occurred because the agency could not provide a documented legal basis for the PSD’s law enforcement authority. The agency now asserts, in response to our draft report, that it has statutory law enforcement authority for its protective service.

Powers of the EPA Under Federal Law

Federal law at 18 U.S.C. § 3063, *Powers of the Environmental Protection Agency*, states, in part:

Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the EPA with responsibility for the investigation of criminal violations of a law administered by the Agency may (1) carry firearms; (2) execute and serve any warrant or other processes issued under the authority of the United States; and (3) make arrests without warrant for—(a) any offense against the United States committed in such officer’s presence; or (b) any felony offense against the United States if such officer has probable cause to believe that the person to be arrested has committed or is committing that felony offense.

The relationship between 18 U.S.C. § 3063 and PSD agents was detailed in an October 16, 2016, analysis by the OCEFT Legal Counsel Division:

Newly-hired PSD Agents are designated EPA Special Agents (SA) in the same manner as SAs hired to work in the Criminal Investigation Division (CID), who are clearly covered by 18 U.S.C. § 3063. However, because the duties of PSD Agents do not comport with the plain language of Section 3063 (which confers law enforcement powers on persons “with responsibility for the investigation of criminal violations of a law administered by the EPA”), they are not authorized to carry firearms and

conduct other law enforcement activities pursuant to that statute. Rather, their law enforcement authority to perform protective services stems from their United States Marshals Service deputation.

We compared the agency law enforcement authority identified in 18 U.S.C. § 3063 to U.S. Secret Service and U.S. Department of State statutes that address law enforcement authority to protect senior leadership.² For example, law enforcement authority for the U.S. Secret Service, at 18 U.S.C. § 3056, subparts (c)(1)(a) through (c), mirrored the same law enforcement authority as in the EPA's statute, but there was no limitation. EPA law enforcement authority, in 18 U.S.C. § 3063, is limited to investigation of criminal violations of laws administered by the EPA. By contrast, the Secret Service statute states, in part, that the service is authorized to protect the President, his family, former Presidents, presidential candidates and other distinguished foreign visitors, to name a few. No similar language exists in the comparable EPA statute.

Past Agency Efforts to Establish Law Enforcement Authority for PSD

The function of protecting the Administrator was moved from the OIG to the PSD under "Temporary Amendment to EPA Delegation of Authority 1-6A." The delegation was signed by then EPA Administrator Christine Todd Whitman and dated September 27, 2001.

The progression the agency has gone through since 2001 to provide a basis for law enforcement authority for the PSD is complicated and at times confusing. Initially, OCEFT's SAs were temporarily assigned to the PSD to provide protective services as needed and then rotated back to their normal duties in the CID at the conclusion of details. The agency appears to have taken the position that the law enforcement powers given to the CID agents under 18 U.S.C. § 3063 were automatically transferred to the agents' working in the PSD. There was no agency legal opinion supporting this position.

According to OCEFT, starting in 2010, the PSD agents did not perform work that comported with the statutory authority set out in 18 U.S.C. § 3063. The EPA, therefore, requested U.S. Marshals Service deputation for the PSD agents so that they would be authorized to carry firearms and exercise other law enforcement authority. According to the GAO, U.S. Marshals Service deputation is one method for agencies that lack statutory authority for protection services to obtain the authority to do so. However, the deputation process has its limits. In fact, the GAO opined that agencies that do not have statutory authority for protection services and are relying on the deputation process should instead seek the statutory authority from Congress.

² See 22 U.S.C. § 2709(a)(3), authorizing Diplomatic Security agents to protect and perform protective functions directly related to maintaining the security and safety of listed officials.

In 2017, the agency stopped using the U.S. Marshals Service's deputation and opted to have the PSD agents either work part of their time in the CID investigating environmental crimes or be permanently assigned to the PSD (with no significant responsibilities for investigating environmental crimes). Following this change, the OIG started questioning OCEFT about the legal basis for the PSD's law enforcement authority.

Office of General Counsel Legal Opinion Regarding PSD

Starting in February 2017, the OIG requested that OCEFT provide the legal authority allowing the EPA to provide protective services. We were informed that the Office of General Counsel (OGC) and OCEFT resolved the law enforcement authority issue, but the agency—repeatedly—failed to respond to our requests for a written legal opinion that supported its position. The agency asserted that the law enforcement authority of 18 U.S.C. § 3063 is broad and runs to agents working in the PSD. The agency further asserted that a PSD agent without responsibility for investigating environmental crimes can make arrests without warrant for any offense against the United States under the EPA law enforcement authority. However, until it responded to our draft report, the OGC had not provided a written opinion detailing the legal bases for its position. The OGC issued a legal opinion regarding the protective service detail on June 29, 2018 (see Appendix A).

The OGC's legal opinion contends that 18 U.S.C. § 3063—the statute that discusses the law enforcement authority for the EPA law enforcement officers with responsibility for the investigation of criminal violations of a law administered by the EPA—could be extended to the EPA's protective service if the PSD agents also had the responsibility for the investigation of environmental crimes. The OGC interpreted the meaning of Section 3063 to include the extension of statutory law enforcement authority for investigating violations of EPA laws to EPA protective services. The OIG does not take any position on the merits of the OGC analysis.

Conclusion

We could not determine whether the PSD agents maintained law enforcement authority to provide protective services for the EPA Administrator. For over a year, and after repeated requests by the OIG, the agency failed to provide a legal opinion setting out the legal basis for the PSD's law enforcement authority. The opinion recently provided by the EPA in response to Recommendation 1 below asserts that, with 18 U.S.C § 3063, *Powers of the Environmental Protection Agency*, the EPA has statutory law enforcement authority for its protective service. The production of the opinion by OGC meets the intent of the OIG's request.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:

1. Obtain a formal legal opinion from the EPA's Office of General Counsel that articulates the underlying legal basis for the law enforcement authority of the Protective Service Detail's agents.
2. Implement the Office of General Counsel opinion through new policies, procedures and/or guidance that defines the amount of time agents must spend on investigating environmental crimes and how the time will be monitored and documented by supervisors.

Agency Comments and OIG Evaluation

The agency provided both a legal opinion (Appendix A) and an initial response (Appendix B) relating to the PSD's law enforcement authority to provide protective services. As a result of the OGC legal opinion, we consider Recommendation 1 to be completed.

The agency's initial response asserted that the OGC legal opinion articulates the underlying legal basis for the authority of the PSD agents, and requested that Chapter 2 be eliminated. The agency additionally contended that several statements in the draft report were incorrect or inaccurate. We modified Chapter 2 to indicate that the statements in question were direct quotations from agency documents. Further, the agency asserts that the OIG ignored the fact that the PSD's current duties include the investigation of environmental crimes. We disagree; we did not ignore it. The addition of environmental crime investigations being added to the PSD agents' scope of work was completed after the OIG informed OCEFT of those requirements.

The OGC legal opinion states that OCEFT must now determine how much time an agent must spend in the CID to transfer the statutory law enforcement authority to the EPA's protective service. We modified Recommendation 2 to address the new requirement. OECA provided comments on the revised recommendations (Appendix C) and concurred with the revised Recommendation 2. The agency indicated the proposed corrective actions will be completed by September 30, 2018. We consider Recommendation 2 resolved with corrective actions pending.

Chapter 3

PSD Lacks Standard Operating Procedures to Address the Level of Protection Required for the Administrator

The PSD has no final, approved standard operating procedures that address the level of protection required for the Administrator or how those services are to be provided. The PSD indicated that, due to staff shortages, it has not updated and finalized draft procedures dating back to 2011. The failure to have effective and current standard operating procedures can result in the organization having unclear lines of authority, inconsistent practices, inappropriate or inadequate staffing, and excessive or unnecessary costs. For example, the PSD incurred over \$3.5 million in costs from February 1, 2017, through December 31, 2017—an increase of over 110 percent compared to the prior period's costs of \$1.6 million—without documented justification.

Standard Operating Procedures

Law enforcement groups generally establish their policies, procedures and/or standard operating procedures based on their authority to carry out their functions. Policies, procedures and/or standard operating procedures help establish consistent practices in law enforcement and lead to operations being carried out in a consistent manner. For example, OCEFT receives its authority through various environmental statutes—such as the Clean Air Act, Clean Water Act and Safe Drinking Water Act—which establish standards for the areas covered (i.e., clean air, clean water and safe drinking water). From these authorities, the OCEFT develops policies, procedures and standard operating procedures that detail specific activities performed while investigating environmental crimes.

In November 2003, a committee led by the Deputy Regional Administrator for Region 4 issued the *Report of the Management Review of the Office of Criminal Enforcement, Forensics and Training* that identified the lack of formal guidance for the PSD. In November 2011—8 years later—the PSD drafted a document titled *Protective Service Detail Standard Operating Procedures*. This document, which is still in draft, states its mission and purpose is:

To provide dignitary protection services to the Administrator of the United States Environmental Protection Agency.

Primary - Safeguard the Administrator from harm and situations likely to endanger his or her person.

PSD officials said that the draft standard operating procedure is out of date, not useful, and currently undergoing revision. Although more than 6 years have passed since the draft document was prepared, PSD management said that due to staff shortages there had not been enough time to update the manual. In response to our work, OCEFT is now in the process of developing policies and procedures for the PSD, and anticipates having the policies and procedures completed by September 2018.

Level of Protection

The PSD did not conduct a threat analysis (threat assessment, level of any other risks and comfort of the protectee) to determine the increased level of protection necessary or desired for Administrator Pruitt. Rather, the PSD asserted that it used an August 16, 2017, report titled *Summary of Pending and Recent Threat Investigations* requested from the OIG to support the increased level of protection. The OIG report consisted of four parts:

1. Summary and Threat Statistics.
2. Threats Directed Against Administrator Pruitt and/or his family.
3. Threats Directed Against Administrator McCarthy.
4. Threats Directed Against Other EPA Employees.

The information in the OIG summary report only consisted of statistical data of threats received by the OIG. The report included quantitative data regarding the number of threats as well as details of some specific threats. The report did not assess the potential danger presented by any of these threats. This information is considerably narrower in scope and only an element of what would be contained as part of a threat analysis as defined by the U.S. Department of Homeland Security or GAO. The OIG only provided statistics and the OIG's report should not have been used to justify protective services. Additionally, the OIG summary report was prepared almost 6 months after the decision to have PSD provide 24/7 protection to the Administrator (and 6 months after the Administrator came onboard, in March 2017).

The PSD's failure to establish policies, procedures and standard operating procedures related to the level of service it provides can result in the organization not operating effectively, efficiently or consistently. It also leads to ambiguity with respect to how the security detail operates.

The decision to have 24/7 protection for the Administrator was made prior to his arrival without using a threat analysis to determine the proper level of protection required. As a result, the level of service it provided to Administrator Pruitt defaulted to a management decision from the Office of the Administrator. The increased costs associated with this undocumented decision represents an inefficient use of agency resources. On July 13, 2018, the now-acting

Administrator requested that 24-hour/7 day-a-week protection be eliminated and replaced with the Portal-to-Portal.

On April 3, 2018, OCEFT management asserted that OCEFT is performing a “threat assessment” as part of the threat analysis every 90 days for operational purposes. OCEFT said it will be working with other EPA offices and the OIG to determine which office is best positioned to perform threat assessments in the future.

GAO and Other Reports Concerning Level of Protection

The GAO’s *Standardization Issues Regarding Protection of Executive Branch Officials*, dated July 2000, notes that threat assessments form the basis for determining the need and scope of protection. The lack of a thorough threat analysis that documents the justification for the level of protection makes it difficult to determine the basis for, reasonableness of, and appropriate cost for the protective services being provided.

The GAO’s report further emphasized the importance placed on threat assessments as part of the analysis. Specifically, it cited an Air Force requirement that detailed, written threat assessments, as part of the analysis, be prepared regarding its protected officials. The assessment should be the initial element of any protective operation and form the basis for determining the need and scope of a formal protective service operation.

The U.S. Department of Homeland Security Risk Steering Committee’s *DHS Risk Lexicon*, dated September 2008, defines a threat assessment as a “process of identifying or evaluating entities, actions, or occurrences, whether natural or man-made, that have or indicate the potential to harm life, information, operations and/or property.”

The U.S. Department of Justice, in its September 2005 report *Assessing and Managing the Terrorism Threat*, states:

The intelligence process is the foundation of threat assessment. ... Threat assessments must be compiled from comprehensive and rigorous research and analysis. Law enforcement cannot function unilaterally. Threat assessments that do not incorporate the knowledge, assessments, and understanding of state, local, and private organizations and agencies with the potential threats being assessed are inherently incomplete. (emphasis added).

Additionally, the report notes that the “threat assessment should also assimilate germane, open-source, or nonproprietary threat assessments, as well as intelligence information.” The report also identifies essential data that should be collected prior to performing the assessment.

Cost of Protective Services Increasing

We compared the total cost of the PSD under Administrator Pruitt for the 11-month period of February 1, 2017, through December 31, 2017, to the cost incurred under Administrator McCarthy for her last 11-month period—between March 1, 2016, and January 31, 2017. We found that total costs of the PSD more than doubled from the costs incurred under Administrator McCarthy, as shown in Table 1 and Figure 2. These increases were due primarily to the new 24-hour/7-day-a-week protection required by the Office of the Administrator and increased costs to travel first class.

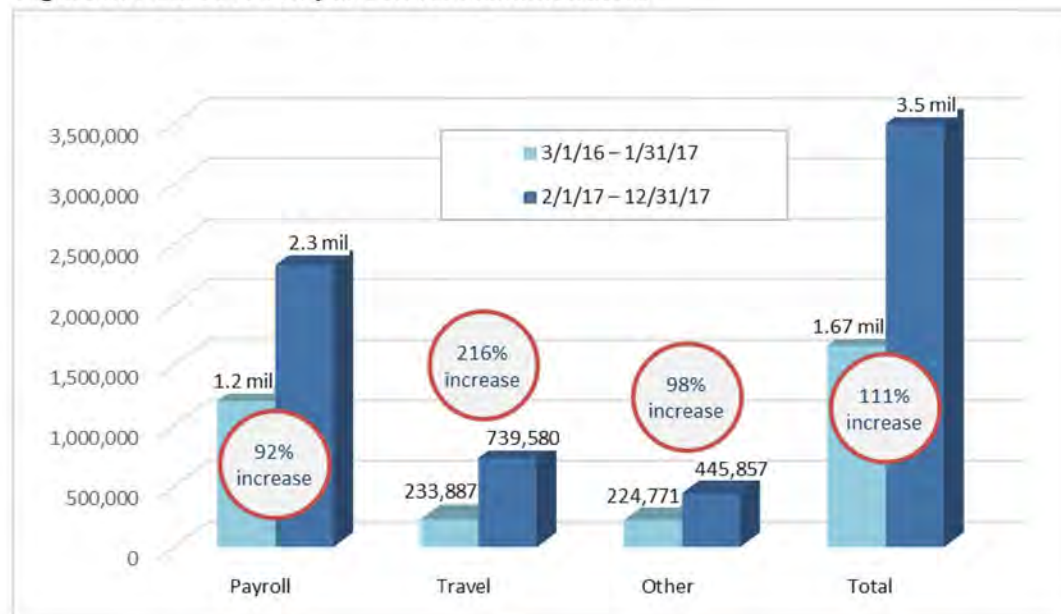
Table 1: PSD cost comparisons for Administrators

Cost element	3/1/16–1/31/17	2/1/17–12/31/17	% increase
Payroll	\$1,208,798	\$2,330,502	92.8%
Travel	233,887	739,580	216.2
Other Direct Costs*	224,771	445,857	98.4
Total	\$1,667,455	\$3,515,940	110.8%

Source: OCEFT resource management staff.

*Other Direct Costs include associated expenses, contracts costs, and working capital fund expenses.

Figure 2: PSD cost comparison for Administrators



Source: EPA OIG image.

Conclusion

The PSD lacks policies, procedures and standard operating procedures for the operational and administrative functions it performs. Further, the services that the PSD provides to the Administrator are based on management decisions rather

than being supported by a threat analysis. As a result, the costs of providing increased security services to Administrator Pruitt have more than doubled compared to the costs of services provided to Administrator McCarthy. OCEFT has expressed a commitment to prepare policies and procedures and perform regularly scheduled threat analysis.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:

3. Have the Office of Criminal Enforcement, Forensics and Training complete and document a threat analysis for the EPA Administrator on a regular basis to justify the proper level of protection required for the Administrator.
4. Using a justified level of protection based on a threat analysis, determine appropriate staffing and corresponding schedules for Protective Service Detail agents.
5. Create and implement comprehensive policies, procedures and standard operating procedures covering the Protective Service Detail operations and proper protection level determinations.

Agency Comments and OIG Evaluation

In its initial response (Appendix B), the agency stated that while a threat assessment is a useful tool, it is just one tool. We agree. We modified the report to address a threat assessment as being part of the overall threat analysis to determine the level of protection for an Administrator, as well as the level of any other risks and comfort of the protectee. Chapter 3 was revised to use the term threat analysis, which would encompass threat assessments, other risks, and the protectee concerns to document and justify the level of protection required for the Administrator.

The agency asserted that the PSD does not conduct or use a threat assessment to determine the level of protection to provide the EPA Administrator. Rather, the level of protection is an administrative decision, informed by awareness of risks and the potential impact of those risks to the efficient functioning of the agency. In February 2017, the PSD was directed by the transition team to provide 24/7 protection to the Administrator, consistent with the level of protection provided some other cabinet officials, and began to do so immediately upon his arrival. The decision to provide 24/7 protection to the Administrator was to be reevaluated after an initial 2-week period.

With respect to the decision to provide 24/7 protection for Administrator Pruitt, we requested documents from OCEFT to support this decision. On multiple

occasions for more than a year, we were informed by OCEFT officials that there was no documentation to support these decisions. As part of the documents provided on June 1, 2018, by the Office of the Administrator, there were discussions as far back as February 2017, when the 24/7 detail was discussed with OCEFT. Numerous emails were provided that included OCEFT employees who earlier stated no documentation existed.

Although the PSD was directed to provide 24/7 protection in February 2017, the agency was aware that such protection needed to be justified. Prior to Administrator Pruitt's coming on board, officials from the Office of the Administrator, OECA, OCEFT and Office of Homeland Security were planning for the 24/7 protection requirement. Collectively these groups were assessing:

1. The history and extent of protection services provided to prior Administrators.
2. A comparison of threat levels.
3. The amount of funding that would be required to provide 24/7 protection.
4. The source of funding for OECA and OCEFT.
5. Long-term fixes necessary if a decision is made to provide 24/7 protection long term.

During Administrator Pruitt's initial 2-week period, a cost analysis and a threat assessment was to be prepared by OCEFT, PSD and Office of Homeland Security to help in the protection reevaluation decision. We found evidence of a cost analysis prepared for the decision meeting, but no threat analysis or documented decision to continue 24/7 protection. We note that on several occasions OCEFT requested information about the assessment of threats from the Office of Homeland Security, and that office did not identify any specific threats against Administrator Pruitt based upon historical information. We have not received any documented evidence or justification supporting the decision to continue to provide 24/7 protective services.

Recommendations 3 and 4 were adjusted to replace the term *threat assessment* with *threat analysis*, and the term *identify* was changed to *justify*. In its revised response (Appendix C), the agency did not concur with revised Recommendations 3 and 4. The agency asserts that while a threat analysis is informative, it is not dispositive of a decision to provide protection nor what level of protection should be provided. Further, it asserts that the lack of threats does not mean there is no risk or that protective services are not justified. The agency proposed different recommendations and corrective actions to replace revised Recommendations 3 and 4.

We disagree with the agency's proposed recommendations and corrective actions as they do not meet the intent of our revised recommendations. The OECA is now proposing to conduct threat analyses only twice a year while previously stating it would do so every 90 days. The threat assessment should be conducted as one of

the inputs to the threat analysis. Further, the threat analysis should be used to document and justify the level of protective services to be provided. Additionally, the agency's proposed corrective actions do not require the decisions related to the level of protection provided to the Administrator be documented.

We consider Recommendations 3 and 4 to be unresolved.

Regarding Recommendation 5, the agency agreed in part. OCEFT is in the process of updating its standard operating procedures specific to protective services and plans to finalize them by September 30, 2018. However, its response does not cover standard operating procedures related to determining the proper level of protection for the Administrator. Therefore, we consider Recommendation 5 to be unresolved with implementation efforts in progress.

Chapter 4

Authorization of PSD Overtime Did Not Follow Policy

OCEFT did not provide proper authorization of overtime requests for agents assigned to the Administrator's PSD. The requests were authorized by an acting Special Agent in Charge (SAC), but that did not meet the level of approval required in the EPA's *Pay Administration Manual*. The OIG identified \$106,507 of overtime payments made without the proper level of authorization. This occurred because OCEFT was not aware of the requirements for the higher level of authorization. OCEFT has since acknowledged the error and made corrections in its authorization process.

Authorization and Approval of Overtime

We reviewed EPA Form 2560-7, *Request for Overtime Authorization*, for agents authorized to perform work for the PSD during September 2016. We found that all overtime authorization forms were prepared by the acting SAC, in advance, based on requirements of the Administrator's travel schedule. The acting SAC also approved the overtime authorizations for each agent, while the OCEFT Deputy Director approved overtime authorizations requested by the acting SAC. The acting SAC was also responsible for approving overtime charges in PeoplePlus. Details are in Table 2.

Table 2: Overtime/compensatory time requests

Week ending	Overtime request forms submitted	Agents requesting overtime*	Approved by acting SAC?
09/10/16	3	5	Yes
09/17/16	4	8	Yes
09/24/16	3	5	Yes
10/01/16	3	9	Yes

Source: OIG analysis of agency data.

* Individual forms were not submitted by each agent.

The requirements for authorization and approval of overtime are in the *EPA Pay Administration Manual*, Chapter 4, Section 6 (May 17, 1990), "Authority to Authorize Overtime and Holiday Work," which states:

The Administrator, Deputy Administrator, Associate Administrators, Assistant Administrators, the Inspector General, the General Counsel, Deputy General Counsels, Regional Counsels, Regional Administrators, office directors, directors of headquarters staff offices or field equivalents, laboratory directors, Headquarters division directors, and regional division directors are authorized to approve overtime and holiday work and to establish work schedules for compensable pre-shift and work-shift activities

in accordance with governing laws, regulations and Agency rules and procedures. This authority may be re-delegated to a level that will assure compliance with legal and regulatory requirements. ...

Additionally, OCEFT Policy P-02, *Premium Pay for OCEFT GS-1811 Criminal Investigators*, Section 3.2(b)(iv), states:

EPA permits office directors and division directors to approve overtime work, and allows re-delegation of this authority. OCEFT has re-delegated the authority to assign regularly scheduled overtime work, compensable by overtime premium pay, to the assistant division director level.

Based on OCEFT policy, the acting SAC is not at the Assistant Division Director level and thus was not authorized to approve overtime requests. OCEFT officials acknowledged they were unaware of the requirements and implemented immediate corrective action to have all future requests authorized by the Deputy Director. Our review of requests made between February 26 through April 22, 2017, showed that either the OCEFT Director or Deputy Director authorized all overtime requests.

Improper Payments

As a result of these improper authorizations, PSD agents incurred unauthorized overtime costs. As shown in Table 3, PSD agents received an estimated \$106,507 in overtime payments for the period January 1, 2016, through March 4, 2017.³

Table 3: Estimated overtime payments

Period covered (calendar year)	Overtime costs
2016 (through 12/24/16)	\$95,500
2017 (12/25/16–03/04/17)	11,007
Total costs	\$106,507

Source: OIG analysis of agency data.



The OIG considers the overtime payments resulting from the improper authorizations to be improper payments as defined by Office of Management and Budget Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments*; and the Improper Payments Elimination and Recovery Improvement Act of 2012. Appendix C of the circular defines an improper payment as:

any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or

³ We did not determine the extent of improper authorization or any costs associated prior to the period and costs presented in Table 3.

other legally applicable requirements. Incorrect amounts are overpayments or underpayments that are made to eligible recipients.

Additionally, the term payment is further defined to mean:

any disbursement or transfer of Federal funds (including a commitment for future payment, such as cash, securities, loans, loan guarantees, and insurance subsidies) to any non-Federal person, non-Federal entity, or Federal employee, that is made by a Federal agency. ...

Under the Improper Payments Elimination and Recovery Improvement Act of 2012, the definition of an improper payment was amended to include payments made to federal employees.

Conclusion

PSD agents worked overtime without proper authorization, resulting in improper payments of \$106,507 between January 2016 and March 2017. There is no requirement to recover these overtime payments solely because the payments were improperly approved; the PSD agents did work the overtime hours. We could not determine the total amount of improperly authorized overtime worked or the period of time the improper authorizations occurred because the issue predates the period of time covered by the audit.

Agency Actions

Based on our discussion with the agency, OCEFT took immediate action to have the Deputy Director approve all requests for overtime. As a result, no recommendation is being made regarding the authorization of overtime.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance require that the Office of Criminal Enforcement, Forensics and Training:

6. Determine the amount of overtime that was improperly authorized for Protective Service Detail agents in calendar years 2016 and 2017 and identify the amounts paid as improper payments.
7. Report improper payments to Protective Service Detail agents to the Office of the Chief Financial Officer for inclusion in the annual Agency Financial Report.

Agency Comments and OIG Evaluation

The agency suggested the final report clarify that the overtime payments made to the PSD agents did not need to be recovered solely because they were improper payments. The OIG incorporated the proposed change.

The agency disagreed with our recommendations. Although the agency agreed that the pre-approval of overtime was improper, it does not believe the payments resulting from the pre-approval were improper payments. While the agency identified the proper criteria, its analysis does not appear to consider the full scope of the criteria. Specifically, under the Improper Payments Elimination and Recovery Improvement Act of 2012, the definition of an improper payment was amended to include payments made to federal employees. Therefore, Recommendations 6 and 7 remain unresolved.

The full agency response is in Appendix B.

Chapter 5

PSD Did Not Follow Policy for Recording and Monitoring Law Enforcement Availability Pay Hours

Administrator Pruitt had required around-the-clock protection, which resulted in PSD agents having complex work schedules with large amounts of overtime, weekend work, shift differentials and Law Enforcement Availability Pay (LEAP) hours. However, PSD agents and their supervisors did not adequately follow policies and procedures for recording and monitoring LEAP hours worked. Failing to follow all applicable policies and procedures increases the risk for fraud, waste and abuse.

Time-and-Attendance and Management Information Systems

On a biweekly basis, PSD agents are responsible for accurately entering hours worked and leave taken into an electronic timesheet within PeoplePlus—the EPA’s time-and-attendance system. Agents attest to the accuracy of the data they enter, and approving officials review and certify to the accuracy of the data. The certified data is then sent to the OCFO’s Office of Technology Solutions for processing and transmittal to the agency’s payroll provider—the U.S. Department of the Interior’s Interior Business Center (IBC).

PSD agents, in accordance with 5 U.S.C. § 5545a, *Availability Pay for Criminal Investigators*, are provided premium pay or LEAP for being available for unscheduled duty. LEAP pay is premium pay that is paid to federal law enforcement officers who are criminal investigators. To qualify for LEAP pay, an agent must work, or be available to work, an average of 2 additional hours for each workday.

PeoplePlus is not used to record agents’ LEAP hours. Rather, PSD agents are responsible for submitting their overtime, leave and LEAP hours into the Monthly Activity Reporting System (MARS)—OCEFT’s internal management information system—by the tenth workday of the following month. MARS is not a time-and-attendance system; it is a separate stand-alone system that does not integrate with PeoplePlus. MARS is considered a management tool. All supervisors are responsible for reviewing and approving entries in MARS for their agents by the end of the month in which they were submitted. This information is used to demonstrate whether the agents are meeting their 2-hour-per-day availability pay requirements. Agents receiving LEAP must make an annual certification that they have met, and are expected to meet, the average 2-hour-per-day availability requirement. This certification must be approved by the investigator’s supervisor and be supported by the information in MARS.

Policy Not Followed

We found that PSD agents and supervisors complied with policies and procedures for scheduling employee time. However, we found that PSD agents and supervisors did not follow existing policies and procedures for recording and monitoring LEAP hours in MARS. Examples of internal controls not being followed included the following:

- Our review of individual agents' MARS entries found that the reports were not completed in a timely manner. We selected 1 month to review and determined that five of six reports were submitted more than a month late. Further, our review of the sampled MARS reports for the same period found that none were approved by management. PSD agents said MARS reports were not done timely because they were busy doing protective duties rather than timekeeping responsibilities—an administrative burden.
- We were informed that PSD agents use PeoplePlus as the starting point for the data inserted into MARS. Despite this, we could not reconcile information in PeoplePlus to the information in MARS. Our analysis found that five of 14 agents who charged hours to the PSD had hours reported in MARS that did not agree with the hours reported in PeoplePlus.

Conclusion

Discrepancies were found between the information in MARS and PeoplePlus. We found that MARS information was not entered timely nor reviewed by supervisors in a timely manner. These deficiencies can be attributed to agents' lack of awareness of MARS responsibilities, and an opinion that compliance with timekeeping responsibilities was an administrative burden and not of sufficient priority.

We initiated a separate audit of OCEFT's LEAP pay recording due to the issues identified; therefore, no recommendations are being made in this report.

Agency Comments and OIG Evaluation

The agency's formal response did not include any comments related to Chapter 5. Our final report includes some minor edits as a result of our ongoing OCEFT LEAP audit.

Chapter 6

Payment Made in Excess of Statutory Pay Limit

A PSD agent received a \$21,449 before-taxes payment in January 2017 for overtime that exceeded the annual pay cap of the prior calendar year. Neither the agency nor its payroll provider initially recognized that the payment resulted in the employee exceeding the 2016 annual pay cap because the overtime hours were worked and recorded in 2016 but not processed and paid until January 2017. The OCFO began coordination on the accuracy of the original payment with IBC in March 2017, and a debt collection notice was issued to the agent on July 14, 2017. We issued a management alert report on September 27, 2017, *Management Alert: Controls Failed to Prevent Employee from Receiving Payment in Excess of Statutory Limit* (Report No. [17-P-0410](#)), to notify the agency of the internal control weakness that resulted in an unauthorized payment.

Debt Collection Notice

On July 14, 2017, the IBC—the EPA’s payroll provider—sent a Bill for Collection to the subject PSD agent informing him that he may have received an excess federal salary payment of \$16,299.33 after taxes. IBC stated that the reason for the overpayment was “an erroneous overpayment/credit,” and requested either payment in full by August 13, 2017, or other repayment options. Starting on July 19, 2017, the PSD agent began filing a formal debt collection waiver request, which stated in part:

I do not believe that this was an erroneous overpayment/credit. It was payment for hours properly preapproved, scheduled, and worked. There was, and still to this day is, enough confusion by many people ... to be able to say that no one really knows at this point if this was truly an erroneous payment. Therefore, I respectfully request that this waiver request be granted and this matter is allowed to be put behind me. ...

According to the IBC, in July 2017, at the EPA’s request, a manual adjustment was made to remove the \$16,299.33 salary payment from the gross wages of the PSD agent because the amount was in dispute. This prevented the \$16,299.33 payment in question from counting toward the annual pay cap. In addition, the perceived temporary manual adjustment was only intended to remain in place until the agency ruled on the waiver request. Consequently, the agent was not required to make any payments against this debt until a final determination was made.

Waiver Determination

On November 1, 2017, the EPA's OGC denied the agent's waiver request. The OGC stated, in part, that after an audit was performed, it was determined by both the IBC and OCFO that the annual pay cap cannot legally be exceeded and may not roll over into the following calendar year. An employee forfeits any additional compensation once he or she hits that year's pay ceiling. Further, the waiver was precluded since the employee was aware that he or she was being overpaid.

After the waiver was denied, the OCEFT Deputy Director and OCFO officials provided the OGC additional information about the debt collection. The OGC was informed that the PSD agent was a criminal investigator earning a base pay of \$136,160, and that his 25 percent LEAP differential would raise his annual salary to over \$170,200—clearly above the annual pay limit of \$161,900. Without receiving the January 2017 lump sum payment, the agent's pay would already be reduced to prevent the agent from exceeding the 2017 annual limit. The OCFO further concluded that the lump sum payment the agent received in January 2017 would count toward the annual limit of \$161,900 and the controls in place would prevent payments above the annual limit. Based on this information, the OGC determined that the cost of further collection was likely to exceed the amount recoverable and consequently the debt was terminated. The OCFO was instructed to work with the IBC to close out this debt.

However, we found the information presented to the OGC by OCEFT and OFCO was incorrect. The OGC was not informed that the disputed payment of \$16,299.33 was manually adjusted and removed from being considered part of the gross wages of the PSD agent. The OGC was also not informed that the manual adjustment caused repayments to be deferred until a final determination was made on the waiver. As a result, the lump sum payment was not included in the calculation of the 2017 annual pay limit, and the PSD agent exceeded the annual pay cap of \$161,900.

Management Alert

Our management alert report—issued September 27, 2017—had recommended the following to the EPA Chief Financial Officer:

1. Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.
2. Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees.
3. Recover any overpayments above the annual statutory pay cap.

OCFO indicated that it agreed with the recommendations and submitted planned corrective actions and revised corrective actions to resolve the management alert's findings on three separate occasions (November 6, 2017; January 17, 2018; and May 17, 2018). However, we found the actions to be incomplete based on the information provided. In June 2018, the OCFO was able to demonstrate that the new controls implemented would prevent future instances of an employee overpayment. However, the OIG maintains that:

1. The OCFO did not provide the scope of its analysis to demonstrate how it could conclude that there were no additional overpayments beyond those identified.
2. The agency has not provided documentation to support the OGC basis for termination of the debt nor that the debt was recouped to prevent exceeding the annual pay cap in calendar year 2017.

Conclusion

The OGC incorrectly terminated a debt owed by a PSD agent because OGC was not informed that the earlier decisions to suspend debt payments removed the lump sum payments from the calculation of the annual pay cap.

Recommendations

We recommend that the General Counsel:

8. Revisit the Office of General Counsel's decision to terminate the debt collection associated with the Protective Service Detail agent who had received the \$16,299.33 overpayment.

We recommend that the Chief Financial Officer:

9. Request a pay audit of the calendar year 2017 wages for the Protective Service Detail agent who had received the overpayment and determine the amount the agent exceeded the 2017 pay cap.
10. Recover the \$16,299.33 for which the waiver for the Protective Service Detail agent who had received the overpayment was denied and any additional overpayment determined by the pay audit.
11. Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.
12. Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees in calendar years 2016 and 2017, and recover any overpayments as appropriate.

Agency Comments and OIG Evaluation

The agency suggested edits to be made to the final report to better summarize and clarify Chapter 6. The OIG incorporated the proposed changes as appropriate.

For Recommendation 8, we verified that on June 4, 2018, the acting EPA Claims Officer reopened the waiver decision that contained the debt termination decision. The waiver decision was appropriate and should stand for reasons previously provided. Only the decision to terminate the debt should be revisited. We have not received a final waiver decision reversing the debt termination, and no estimated date for completion of corrective actions was provided. Therefore, this recommendation is unresolved.

For Recommendation 9, the agency agreed and requested the IBC to complete a pay audit on the subject PSD agent. The agency estimated corrective actions will be completed by September 30, 2018. We consider this recommendation resolved with corrective actions pending.

For Recommendation 10, the agency agreed and indicated it will collect any debts upon completion of the OGC review and IBC pay audit. The agency estimated corrective actions will be completed by September 30, 2018. We consider this recommendation resolved with corrective actions pending.

For Recommendation 11, the agency agreed and has strengthened controls with the IBC to help prevent reoccurrence of the problem noted. However, the actions taken to date do not eliminate the removal of salary payments from the annual pay cap calculation when the amount is subject to waiver. Therefore, this recommendation is unresolved.

For Recommendation 12, the agency agreed with our recommendation and provided an analysis of unauthorized payments made in calendar years 2016 and 2017. However, the agency has not indicated how it intends to determine and recover any overpayments as appropriate and the date when the recovery will be completed. Therefore, this recommendation is unresolved.

The full agency response is in Appendix B.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	8	Obtain a formal legal opinion from the EPA's Office of General Counsel that articulates the underlying legal basis for the law enforcement authority of the Protective Service Detail's agents.	C	Assistant Administrator for Enforcement and Compliance Assurance	6/29/18	
2	8	Implement the Office of General Counsel opinion through new policies, procedures and/or guidance that defines the amount of time agents must spend on investigating environmental crimes and how the time will be monitored and documented by supervisors.	R	Assistant Administrator for Enforcement and Compliance Assurance	9/30/18	
3	13	Have the Office of Criminal Enforcement, Forensics and Training complete and document a threat analysis for the EPA Administrator on a regular basis to justify the proper level of protection required for the Administrator.	U	Assistant Administrator for Enforcement and Compliance Assurance		
4	13	Using a justified level of protection based on a threat analysis, determine appropriate staffing and corresponding schedules for Protective Service Detail agents.	U	Assistant Administrator for Enforcement and Compliance Assurance		
5	13	Create and implement comprehensive policies, procedures and standard operating procedures covering the Protective Service Detail operations and proper protection level determinations.	U	Assistant Administrator for Enforcement and Compliance Assurance		
6	18	Require that the Office of Criminal Enforcement, Forensics and Training determine the amount of overtime that was improperly authorized for Protective Service Detail agents in calendar years 2016 and 2017 and identify the amounts paid as improper payments.	U	Assistant Administrator for Enforcement and Compliance Assurance		\$106.5
7	18	Require that the Office of Criminal Enforcement, Forensics and Training report improper payments to Protective Service Detail agents to the Office of the Chief Financial Officer for inclusion in the annual Agency Financial Report.	U	Assistant Administrator for Enforcement and Compliance Assurance		
8	24	Revisit the Office of General Counsel's decision to terminate the debt collection associated with the Protective Service Detail agent who had received the \$16,299.33 overpayment.	U	General Counsel		
9	24	Request a pay audit of the calendar year 2017 wages for the Protective Service Detail agent who had received the overpayment and determine the amount the agent exceeded the 2017 pay cap.	R	Chief Financial Officer	9/30/18	
10	24	Recover the \$16,299.33 for which the waiver for the Protective Service Detail agent who had received the overpayment was denied and any additional overpayment determined by the pay audit.	R	Chief Financial Officer	9/30/18	
11	24	Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.	U	Chief Financial Officer		

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
12	24	Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees in calendar years 2016 and 2017, and recover any overpayments as appropriate.	U	Chief Financial Officer		

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

OGC Legal Opinion Regarding Protective Service Detail



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

JUN 29 2018

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Legal Opinion Regarding Protective Service Detail

FROM: Wendy L. Blake, Associate General Counsel *WLB*
General Law Office
Office of General Counsel

THRU: Kevin S. Minoli, Principal Deputy General Counsel
Office of General Counsel *KSM*

THRU: Matthew Z. Leopold, General Counsel *MZL*
Office of General Counsel

TO: Henry E. Barnet, Director
Office of Criminal Enforcement, Forensics & Training

The Office of General Counsel has been asked to opine on (1) the source of the Agency's legal authority to provide protective services for the Administrator, and (2) the basis of the protective service agents' authority to carry firearms, execute warrants, and make arrests, otherwise known as "law enforcement authority," while in the performance of their protective services duties. The Agency has authority to expend appropriated funds to provide protective services for the Administrator under 5 U.S.C. § 301. Further, the protective service agents derive law enforcement authority under 18 U.S.C. § 3063 provided they have responsibility for investigating environmental crimes. Together, these statutes authorize the Agency to provide a protective service detail to the Administrator comprised of protective service agents with full law enforcement authority to carry firearms, execute warrants, and make arrests.

Background

The U.S. Environmental Protection Agency employs a Protective Service Detail (“PSD”) staffed by agents responsible for providing personal protective services to the Agency’s Administrator.¹ The PSD is a separate component of the Criminal Investigation Division (“CID”) in the Office of Criminal Enforcement, Forensics, and Training (“OCEFT”), Office of Enforcement and Compliance Assurance. Across the federal government, federal law enforcement personnel such as PSD agents must possess authority to exercise law enforcement functions including carrying firearms, executing warrants, and making arrests. For instance, the criminal investigators in CID who conduct investigations of environmental crimes, derive their law enforcement authority from 18 U.S.C. § 3063, “Powers of the Environmental Protection Agency,” which states, in part:

Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the Environmental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may—

- (1) carry firearms;
- (2) execute and serve any warrant or other processes issued under the authority of the United States; and
- (3) make arrests without warrant for—
 - (A) any offense against the United States committed in such officer’s presence; or
 - (B) any felony offense against the United States if such officer has probable cause to believe that the person to be arrested has committed or is committing that felony offense.

This statute provides full law enforcement authority to carry firearms, execute warrants, and make arrests. This authority is broad, allowing CID criminal investigators to carry firearms and make arrests without warrants for offenses against the United States committed in their presence (or if

¹ Currently all PSD agents are classified as Criminal Investigators, GS-1811.

they have probable cause to believe that someone has committed or is committing a felony), even at times when they are not actively investigating environmental crimes.

We understand from OCEFT that when CID criminal investigators assigned to the PSD first undertook the performance of protective services in the wake of the September 11, 2001 terrorist attacks, they possessed law enforcement authority related to their criminal investigative work conferred by 18 U.S.C. § 3063. Nearly a decade later, the PSD began to employ law enforcement officers hired from outside the Agency who were not envisioned to have “responsibility for the investigation of criminal violations” of environmental laws -- the prerequisite for § 3063 authority. OCEFT consulted with the Office of General Counsel (“OGC”) about this issue, and in 2010 obtained law enforcement authority for PSD agents through deputation by the U.S. Marshals Service. These deputations granted PSD agents law enforcement authority for a set period of time (as specified in the deputations). In the fall of 2016, OCEFT again consulted with OGC regarding transitioning PSD agents’ law enforcement authority back to 18 U.S.C. § 3063. OGC concurred with OCEFT’s view that PSD agents with actual “responsibility for the investigation of criminal violations” may appropriately rely on § 3063 for law enforcement authority.

Analysis

A. The Agency Has Authority to Expend Appropriated Funds on Protective Services

It is well established that the Agency has the authority to expend resources for the personal protection of the Administrator. Such authority is derived from 5 U.S.C. § 301, commonly referred to as a “housekeeping statute.” Section 301 authorizes an agency head to “prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and

property.” 5 U.S.C. § 301. The Comptroller General of the United States, who also heads the U.S. Government Accountability Office (“GAO”), has interpreted this general grant of administrative authority as permitting federal agencies to expend appropriated funds to assign employees to provide protective services, and has advised that under § 301, an agency may authorize the use of its appropriated funds, personnel, and assets to protect agency officials.² The Comptroller General further advised that this authority extends to agencies without specific statutory authority for protective services. In a decision analyzing the authority of the U.S. Department of the Treasury to provide a protective service detail to the Secretary of the Treasury, the Comptroller General opined,

...if a Government official were threatened or there were other indications that he was in danger, and if it were administratively determined that the risk were such as to impair his ability to carry out his duties, and hence to affect adversely the efficient functioning of the agency, then funds of his agency, the use of which was not otherwise restricted, might be available to protect him, without specific statutory authority.

In re the Secret Serv. Prot. for the Sec’y of the Treasury, 54 Comp. Gen. 624, 628-29, (Jan. 28, 1975).³ The Comptroller General’s conclusion rests on the view that the deployment of security personnel is “an executive function essential to the management of a department and the performance of its business.” *Id.* at 628-29.

Additionally, in *In re the Secret Serv. Prot. for the Sec’y of the Treasury*, the Comptroller General stated that the GAO “would generally not object” to an agency providing protection

² See, e.g., *In re the Secret Serv. Prot. for the Sec’y of the Treasury*, 54 Comp. Gen. 624, 628-29, (Jan. 28, 1975), *as modified*, 55 Comp. Gen. 578, B-149372 (Dec. 18, 1975); *Matter of Home & Auto. Sec. Sys. for U.S. Customs Serv. Pers.*, B-251710 (July 7, 1993).

³ See also U.S. Gov’t Accountability Office, GAO/GGD/OSI-00-139, “Security Protection, Standardization Issues Regarding Protection of Executive Branch Officials,” B-283892, at 12 (July, 2000) (noting that agencies may provide protection to their officials “if it is administratively determined that the efficiency of the agencies would be affected because of threats or other legitimate concerns over the safety of officials that would impair their abilities to carry out their duties”).

services to its officials “where there is legitimate concern over the safety of an official and where the agency’s functioning may be impaired by the danger to that official - to an agency.” *Id.* at 629. On this basis, the GAO further opined that the “Secretary [of the Treasury] - in a proper case - may arrange for his protection by personnel of the Department of the Treasury or by the Secret Service, but in the latter case only on a reimbursable basis” even when the Secretary was not one of the officials the Secret Service was specifically authorized to protect under 18 U.S.C. § 3056. *Id.* at 630.⁴

Many federal agencies, like EPA, that lack specific statutory authority to provide protective services rely on the Comptroller General’s interpretation of 5 U.S.C. § 301 to justify the expenditure of appropriated funds on protective services.⁵ As the GAO noted in a report analyzing protection of executive branch officials across different federal agencies, “[f]rom fiscal years 1997 through 1999, ... security protection was provided to officials holding 42 executive branch positions at 31 executive branch agencies.” *Id.* at 2. The GAO catalogued security services provided to 14 Cabinet secretaries, four deputy or undersecretaries, and 24 other high-ranking officials. *Id.* at 7. Of these, “[o]nly two executive branch agencies ... –the Secret Service and the State Department –had specific statutory authority to protect executive branch officials, including the authority to carry firearms in carrying out their protective responsibilities.” *Id.* at 11. The report goes on to explain that “[a]lthough none of the other agencies cited specific statutory authority to

⁴ The Comptroller General’s reasoning has appeared in other cases reviewing the protective services of other federal agencies. *See e.g.*, U.S. Gov’t Accountability Off., GA0-04-261SP, Principles of Federal Appropriations Law (3d ed. 2004) (citing favorably to 54 Comp. Gen. 624 and *Matter of Home & Auto. Sec. Sys. for U.S. Customs Serv. Pers.*, B-251710 (July 7, 1993), in which the Comptroller General determined that the U.S. Customs Service may provide security devices for agents based on the risk created by their law enforcement responsibilities, the threat environment, and past threats against Customs personnel).

⁵ *See* GAO Report, Security Protection, Standardization Issues Regarding Protection of Executive Branch Officials, B-283892 (2000).

protect their officials, that does not mean that the agencies are not authorized to provide such services.” *Id.* The GAO cited to its prior opinions in the report, explaining:

In decisions of the Comptroller General, we have recognized that under certain circumstances, agencies can expend appropriated funds to protect their officials as a necessary expense. Such protection is warranted if it is administratively determined that the efficiency of the agencies would be affected because of threats or other legitimate concerns over the safety of officials that would impair their abilities to carry out their duties.

Id. at 11-12.

Accordingly, pursuant to 5 U.S.C. § 301 and the above noted Comptroller General decisions interpreting 5 U.S.C. § 301, the Agency has the authority to expend appropriated funds on the protection of the Administrator. We next turn to the issue of how agents that perform protective services for the Administrator derive their law enforcement authority to carry firearms, execute warrants, and make arrests.

B. PSD Agents Have Law Enforcement Authority Under 18 U.S.C. § 3063

In order for PSD agents to carry firearms, execute warrants, or make arrests in the performance of their protective duties, they must have law enforcement authority. There is no statutory provision that provides EPA with law enforcement authority specifically for law enforcement officers who solely provide protective services. As stated above, however, 18 U.S.C. § 3063 does provide law enforcement authority for EPA law enforcement officers “with responsibility for the investigation of” environmental crimes. Section 3063 specifically provides:

any law enforcement officer of the Environmental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may—

- (1) carry firearms;
- (2) execute and serve any warrant...; and
- (3) make arrests....”

Therefore, whether an agent can have law enforcement authority rests on whether he or she has been designated with “responsibility” for the investigation of environmental crimes. The most

important rule of statutory construction is to begin with the language of the statute.⁶ As the Supreme Court has stated, “we begin with the understanding that Congress ‘says in a statute what it means and means in a statute what it says there.’”⁷ “When the statute’s language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms. [internal quotations omitted].”⁸ “To determine the meaning of a statute’s text, judges evaluate the “natural reading”⁹ or “ordinary understanding”¹⁰ of disputed words. Courts often refer to dictionaries to find this ordinary meaning.¹¹

Here, the statute is clear. “[A]ny law enforcement officer ... with responsibility for investigat[ing]” environmental crimes has law enforcement authority under 18 U.S.C. § 3063. The statute is neither ambiguous nor otherwise unclear in its meaning. When considering the ordinary meaning of the text of the statute, “with responsibility” can be reasonably interpreted to mean that PSD agents are to be available to be called on and do perform environmental criminal investigatory work.¹²

⁶ See, e.g., *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1 (2000); see also *Robinson v. Shell Oil Co.*, 519 U.S. 337 (1997); *Conn. Nat’l Bank v. Germain*, 503 U.S. 249 (1992); *Mallard v. U.S.D.C. So. Dist. of Iowa*, 490 U.S. 296, 300 (1989).

⁷ *Hartford Underwriters Ins. Co.*, 530 U.S. at 6 (quoting *Conn. Nat’l Bank v. Germain*, 503 U.S. at 254).

⁸ *Id.* (citing *United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 241 (1989) (quoting *Caminetti v. United States*, 242 U.S. 470, 485 (1917))); see also *Zuni Pub. Sch. Dist. No. 89 v. Dep’t of Educ.*, 550 U.S. 81, 93 (2007) (“[N]ormally neither the legislative history nor the reasonableness of the Secretary’s method would be determinative if the plain language of the statute unambiguously indicated that Congress sought to foreclose the Secretary’s interpretation.”).

⁹ *Am. Hosp. Ass’n v. NLRB*, 499 U.S. 606, 611 (1991).

¹⁰ *Babbitt v. Sweet Home Chapter of Cmty. for a Great Or.*, 515 U.S. 687, 697 (1995). See also *Astrue v. Capato*, 132 S. Ct. 2021, 2030, 2130 (2012).

¹¹ E.g., *MCI Telecomms. Corp. v. AT&T Co.*, 512 U.S. 218, 227-29 (1994).

¹² In the Merriam-Webster dictionary, “responsibility” is defined as:

- 1: the quality or state of being responsible: such as
 - a: moral, legal, or mental accountability
 - b: reliability, trustworthiness

- 2: something for which one is responsible: burden

responsibility, MERRIAM-WEBSTER ONLINE DICTIONARY, <https://www.merriam-webster.com/dictionary/responsibility>.

We understand from OCEFT that all PSD agents' position descriptions include criminal investigatory responsibilities. Further, according to OCEFT, PSD agents presently perform environmental criminal investigatory work in addition to their protective service duties. Their criminal investigatory work includes activities such as executing warrants; serving subpoenas; conducting witness interviews; analyzing documents relevant to environmental criminal investigations; and evaluating incoming tips on potential criminal environmental violations. In light of the plain language of the statute, PSD agents derive law enforcement authority under 18 U.S.C. § 3063 provided they have responsibility for performing environmental criminal investigative work.¹³

A PSD agent's supervisor is in the best position to determine the actual responsibilities of his or her employees. To aid a supervisor in documenting the conclusion that an employee has responsibility for the investigation of environmental crimes, we recommend OCEFT develop a system that documents and tracks the following: the percentage of time each employee is expected to spend on investigating environmental crimes each year; the nature of environmental criminal investigatory activities actually conducted each year; and the percentage of time actually spent on such activities each year. We also recommend that OCEFT continue to ensure that all agents investigating environmental crimes include those responsibilities as part of their position

The word "responsible," in turn, is defined as, as applicable here:

1a: liable to be called on to answer

1b(1): liable to be called to account as the primary cause, motive, or agent a committee responsible for the job

1b(2): being the cause or explanation mechanical defects were responsible for the accident

1c: liable to legal review or in case of fault to penalties ...

responsible. MERRIAM-WEBSTER ONLINE DICTIONARY. <https://www.merriam-webster.com/dictionary/responsible>.

¹³ Where PSD agents have responsibility for the investigation of environmental crimes, they may carry firearms, make arrests, and execute warrants even at times when they are not carrying out criminal investigatory duties, such as when they provide protective services for the Administrator.

descriptions. There is no black letter law definition or answer as to what percentage of time or activities conducted are sufficient to conclude that an employee has “responsibility for” the investigation of environmental crimes. Ultimately, the extent to which an employee has responsibility for the investigation of environmental crimes is a judgment made by the employee’s supervisor.

Conclusion

In summary, the Agency’s authority to expend appropriated funds to provide protective services for the Administrator is derived from 5 U.S.C. § 301. Furthermore, PSD agents derive law enforcement authority from 18 U.S.C. § 3063 provided they have responsibility for performing environmental criminal investigative work. We recommend that OCEFT develop a system that documents and tracks the information identified above to aid the supervisor in documenting the conclusion that an employee has responsibility for the investigation of environmental crimes.

Initial Agency Response to Draft Report



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

JUN 29 2018

MEMORANDUM

SUBJECT: Response to the May 30, 2018, Office of Inspector General's Draft Report, "Agents Assigned to Protective Service Detail Lack Statutory Authority to Protect the EPA Administrator"

FROM: Matthew Z. Leopold, General Counsel
Office of General Counsel *Matthew Z Leopold*

Susan Parker Bodine, Assistant Administrator
Office of Enforcement and Compliance Assurance *Susan Parker Bodine*

Holly W. Greaves, Chief Financial Officer
Office of the Chief Financial Officer *Holly Greaves*

TO: Arthur Elkins, Inspector General
Charles Sheehan, Deputy Inspector General
Office of Inspector General

Thank you for the opportunity to respond to the issues and recommendations presented in the Office of Inspector General Draft Report, Project No. OPE-FY16-0265 regarding the protection of the EPA Administrator. The Office of General Counsel and the Office of Enforcement and Compliance Assurance disagree with the facts and legal conclusions set forth in the draft report, as set forth in this letter as well as in the attached legal opinion of the General Counsel and the attached redline of the draft report. The Office of the Chief Financial Officer believes that the draft report includes misstatements, which are corrected in the attached redline.

Chapter 2: EPA PSD Agents Lack Statutory Authority to Perform Law Enforcement Functions

Chapter 2 of the draft report states: "We concluded that the EPA's [Protective Service Detail] PSD agents lack statutory authority to provide protective services for the EPA Administrator." That statement is incorrect as a matter of law. PSD agents possess proper authority to perform protective services for the Administrator under 5 U.S.C. § 301. Further, PSD agents' law enforcement authority, which includes the authority to make arrests and carry firearms, is derived from 18 U.S.C. § 3063, provided they have responsibility for the investigation of environmental crimes.

The Office of Inspector General (OIG) draft report improperly conflates the Agency's general authority to provide protective services with the "law enforcement authority" of PSD agents. The authority to provide protective services is separate and apart from PSD agents' authority to carry firearms, execute warrants, make arrests, and perform other law enforcement functions. This improper conflation results in numerous errors throughout the draft report. Prior to the issuance of the draft Chapter 2, Office of General Counsel (OGC) conveyed the clear legal authority for both the existence of the PSD itself and the PSD agents' law enforcement authority to the OIG auditors.

The Agency has clear authority to assign employees to provide protective services under 5 U.S.C. § 301, as confirmed by Comptroller General decisions. In 1975, the Comptroller General determined that "if a government official were threatened or there were other indications that he was in danger, and if it were administratively determined that the risk were such as to impair his ability to carry out his duties, and hence to affect adversely the efficient functioning of the agency, then funds of his agency, the use of which was not otherwise restricted, might be available to protect him, without specific statutory authority." See 54 Comp. Gen. 624 (Jan. 28, 1975). Thus, all agencies, including EPA, have authority to expend appropriated funds to protect government officials.

As OGC staff had previously informed your staff, PSD agents derive law enforcement authority from 18 U.S.C. § 3063 whenever they have responsibility for the investigation of environmental crimes. 18 U.S.C. § 3063 states in part:

"Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the Environmental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may— (1) carry firearms; execute and serve any warrant ... ; and (3) make arrests without warrant"

Chapter 2 incorrectly states that "...because the duties of PSD agents do not comport with the plain language of 18 U.S.C. § 3063 ... they are not authorized to carry firearms and conduct other law enforcement activities pursuant to that statute." Chapter 2 also incorrectly states that, "the agency appears to have taken the position that the law enforcement powers given to the Criminal Investigations Division (CID) agents under 18 U.S.C. § 3063 were automatically transferred to the agents' work in PSD." These assertions are inaccurate. OIG's analysis ignores PSD agents' actual current duties, specifically the vital fact that part of a PSD agent's time is spent on criminal investigatory work. OIG failed to include this key fact in its analysis, even though the Agency clearly noted this fact to the OIG. The fact that PSD agents currently spend some of their time investigating environmental crimes means that PSD agents *do* perform work that comports with the plain language of the statute. There is no "transfer" of authority from CID agents to PSD agents. PSD agents, like other CID agents, derive their law enforcement authority from 18 U.S.C. § 3063 provided they have responsibility for the investigation of environmental crimes.

The law enforcement authority conferred by 18 U.S.C. § 3063 is broad, as evidenced by the plain language of the statute which provides the authority for agents to make arrests for "any offense against the United States." 18 U.S.C. § 3063(3)(A). By meeting the plain language requirements of 18 U.S.C. § 3063 by maintaining responsibility for the investigation of environmental crimes, PSD agents carry that full law enforcement authority beyond the investigation of environmental crimes to their security work for the Administrator.

As requested in Chapter 2 of your draft report, on June 29, 2018, you received an opinion from the General Counsel that “articulates the underlying legal basis for the authority of the Protective Service Detail’s agents.” Therefore, the Agency has fulfilled your Chapter 2 recommendation and it is our expectation that Chapter 2 of the draft report will be deleted and the remainder of the draft report revised accordingly.

OGC forwarded its legal opinion about statutory law enforcement authority for the PSD and it is included in its entirety as Appendix A of this report. The OIG does not take any position on the merits of the OGC analysis.

The OGC legal opinion states that OCEFT must now determine how much time an agent must spend in the CID to transfer statutory law enforcement authority to the EPA’s protective service. We modified Recommendation 2 to address this new requirement.

Protective Services

Chapter 3 of the draft report concludes that: “The PSD lacks policies, procedures and standard operating procedures for the operational and administrative functions it performs” and “the services that the PSD provides to the Administrator are based on unsupported management decisions and discretion.” The draft report draws this conclusion because the report rests on the inaccurate premise that a “formal threat assessment” is necessary to justify a level of protective services. Based on this faulty premise, the draft report then erroneously concludes that the absence of a “formal threat assessment” is the cause of the increase in the costs of protective services.

The draft report references Department of Justice definition of threat assessment from a report on managing terrorism and concludes that EPA must conduct a similar type of threat assessment to justify providing protective services. Specifically, the draft report recommends that the PSD conduct formal threat assessments that are based on “comprehensive and rigorous research and analysis,” that incorporate “knowledge, assessments, and understanding of state, local, and private organizations and agencies,” and that “assimilate germane, open source, or nonproprietary threat assessments, as well as intelligence information.”

We disagree. While a threat assessment is a useful tool, it is just one tool. Further, the lack of threats does not mean that there is no risk or that protective services are not justified.

According to the Secret Service:

“The purpose of U.S. Secret Service threat assessment and protective intelligence activities is to identify, assess, and manage persons who might pose a threat *to those we protect*, while the goal of these activities is to prevent assassination attempts.”⁴

⁴ Protective Intelligence & Threat Assessment Investigations, A Guide for State and Local Law Enforcement Officials, Research Report, U.S. Department of Justice, Office of Justice Programs (July 1998), at iii (emphasis added).

A threat assessment evaluates known threats. It does not address persons who do not make threats, who, according to the Secret Service, represent the majority of persons who attack public officials.⁵ Thus, a threat assessment, while informative, is not dispositive of a decision to provide protection nor what level of protection should be provided. A protectee could be at risk even if there are no direct threats made against him or her.

For example, James Hodgkinson, who attacked members of the Republican Congressional baseball team on June 14, 2017, made no threats prior to his attack.⁶ A threat assessment as envisioned in the draft report would not have identified a need for the protective services provided to the House Majority Whip, Steve Scalise, on that day. However, if his detail had not been present at the morning practice of the Republican team, it is likely that most of the members of that team would now be dead.

The Secret Service's review of Jared Lee Loughner's actions before he shot Representative Gabrielle Giffords leads to similar conclusions. Mr. Loughner did not threaten Representative Giffords prior to attacking her. However, he had developed a pattern of disturbing behavior. In a review of this shooting, the Secret Service found that in many cases attackers had previously come to the attention of law enforcement, even though they had not made threats against protectees. Based on this finding, the review recommends collection of information from a broader range of sources to assess an individual's risk for violence. Specifically, the Secret Service made recommendations regarding the scope of a threat assessment similar to those in the draft report:

When someone comes to the attention of law enforcement for engaging in threatening or concerning behavior, a threat assessment investigation may be initiated to assess the individual's risk for engaging in targeted violence. When conducting a comprehensive assessment of the risk a person may pose, it is essential to gather detailed information from multiple sources to enhance your understanding of the individual's life circumstances and why the individual engaged in the behavior that brought him or her to the attention of law enforcement.⁷

However, the difference between the Secret Service recommendations and the draft report is that the Secret Service does not suggest that a broad, system-wide, threat assessment is a predicate to providing personal protective services. Even if a protection unit embraces this systems approach for threat assessment investigations, there is no guarantee that all threats can be identified and risk eliminated.

Protective services are provided based on risk as well as threat assessments. Some protectees are at risk simply based on the positions they hold. We are, unfortunately, living in an era when political discourse is no longer polite and persons feel that political disagreements justify making statements on social media that incite violence. For example, in early June 2018, Occupy Wall

⁵ Protective Intelligence & Threat Assessment Investigations, *supra* note 1, at 14.

⁶The Congressional Shooter: A Behavioral Review of James Hodgkinson, Department of Homeland Security, United States Secret Service, National Threat Assessment Center, October 2, 2017, at 1.

⁷ National Threat Assessment Center. (2015). Using a systems approach for threat assessment investigations. A case study on Jared Lee Loughner. Washington, DC: U.S. Secret Service, Department of Homeland Security.

Street posted the current EPA Administrator's home address and encouraged persons to "take yr pitchfork to him directly." The person who originally posted that message may not pose a threat, but someone like James Hodgkinson could read that message and decide to take action.

Mr. Hodgkinson had been a supporter of Occupy Wall Street and on March 22, 2017, Hodgkinson posted on his Facebook page that he signed a Change.org petition calling for the removal of the President and Vice President of the United States from office for treason. He also commented on his post saying, "Trump is a Traitor. Trump Has Destroyed Our Democracy. It's Time to Destroy Trump & Co." Later, Mr. Hodgkinson drove to the Washington, D.C. area from his home in Illinois and attacked the Republican Congressional baseball team.

The draft report appears to assume that more complex threat assessments can reduce or eliminate the need for physical protection, thereby reducing costs. That assumption is not supported. As noted above, a threat assessment is an investigation into a known threat to try to prevent attacks. However, since most attacks are not preceded by a threat, physical protection remains a necessity. Further, the cost of conducting threat assessments of the scope described in the draft report could increase, not decrease, the PSD costs. We note that in FY 2017 the protective intelligence unit of the Secret Service included 204 agents and received \$43 million in appropriations. That unit includes the National Threat Assessment Center, which conducts research on targeted violence and publishes those findings.

The OIG agreed in the exit conference on July 23, 2018, to use the term threat analysis in the report. The threat analysis encompasses a threat assessment, level of any other risks, and the concerns of the protectee. Also, the threat analysis in its entirety documents and justifies the proper level of protection required for the Administrator.

In February 2017, the PSD was directed by the transition team for the new administration to provide 24/7 protection to the EPA Administrator, consistent with the level of protection provided to some other cabinet officials, and began to do so immediately upon his arrival. This level of protection has continued since that time due to continued risks and specific threats.

The decisions related to these assertions have not been documented.

At EPA, the OIG's Office of Investigations sets policy, coordinates, and has overall responsibility for criminal investigations of allegations of threats against EPA employees. If the threats are against the Administrator, the OIG shares its information with the PSD. The EPA Office of Homeland Security provides information to the PSD on any potential national security threats – domestic or international. The PSD uses information from multiple sources, including open-source information and information from our federal/state/local law enforcement partners, to provide protection. EPA will continue this information collection to identify risks to the safety of the EPA Administrator and to mitigate known threats. The Office of Criminal Enforcement, Forensics, and Training, since January 2018, now performs a formal threat assessment every 90 days to inform decisions regarding protection of the EPA Administrator.

With respect to policies and procedures, OCEFT directives are applicable to the PSD and the PSD has standard operating procedures specific to protection work. OCEFT will update and finalize those SOPs.

Payroll

The EPA's Office of the Chief Financial Officer is responsible for preparing the agency's biweekly time and attendance for transmission to the Department of Interior's Interior Business Center for payroll processing. OCFO internal controls related to biweekly pay cap requests and processing are in place and include 1) only allowing electronic updates and transmission of timecards to the pay roll provider from PeoplePlus, the agency's time and attendance system, ensuring biweekly pay is processed as intended and 2) only processing pay cap lift requests using the Pay Cap Lift SharePoint site ensuring requests are documented and authorized by the appropriate EPA personnel. IBC is implementing a new internal control in its payroll system, the Federal Personnel Payroll System, that will ensure that pay cap lift requests received from the agency are reviewed against the year worked. The combination of these processes and system improvements, coupled with the Office of Acquisition and Resource Management guidance on premium pay and premium pay requests will further strengthen the pay cap lift process and ensure the process performs as needed to avoid exceeding biweekly or annual pay caps inappropriately.

RESPONSE TO RECOMMENDATIONS:

OGC, OECA, and OCFO are including a redline version of the draft report with this response so that the OIG can better track our recommended edits for specific sections of the report. Additionally, we are providing narrative comments addressing the report's recommendations below.

RECOMMENDATION 1: *Obtain a formal legal opinion from the EPA's Office of General Counsel that articulates the underlying legal basis for the authority of the Protective Service Detail's agents.*

- EPA's Office of General Counsel has provided a formal legal opinion affirming the authority of the PSD to provide protective services to the EPA Administrator. Therefore recommendation 1 should be removed from the draft report and the report should be revised accordingly.

RECOMMENDATION 2: *If the Office of General Counsel concludes that Protective Service Detail agents lack statutory authority to provide protective services, determine and initiate the proper action to remedy the issue.*

- EPA's Office of General Counsel has provided a formal legal opinion affirming the authority of the PSD to provide protective services to the EPA Administrator. Therefore

recommendation 2 should be removed from the draft report and the report should be revised accordingly.

RECOMMENDATION 3: *Have the Office of Criminal Enforcement, Forensics and Training complete and document a threat assessment for the EPA Administrator on a regular basis to identify the proper level of protection required for the Administrator.*

- ***OECA Response: Agree in part; disagree in part.***

The OIG has acknowledged - and OECA agrees - that there is no legal requirement to conduct a threat assessment as a prerequisite to providing protective services. In fact, according to the Government Accountability Office report cited by OIG in the subject report, a majority (three-fourths) of the agencies providing protective services did not develop detailed, written threat assessments justifying their decisions to apply certain levels of protection and expend resources.

OECA understands that the OIG believes conducting threat assessments is a “best practice” and agrees with this view. In fact, OECA currently conducts a threat assessment every 90 days and OCEFT is in the process of developing an SOP for threat assessments (which we anticipate finalizing by September 30, 2018, along with the other SOPs). However, the audit report should be clear that (1) a threat assessment is not a predicate to providing protective services, (2) while OECA believes that a threat assessment can be a useful source of relevant information, the assessment itself cannot dictate the level of protection, (3) a threat assessment investigates known threats but not all attackers make threats, (4) there is no legal requirement to conduct a formal threat assessment, and (5) a threat assessment is scalable and not every assessment applies the systems approach recommended by the OIG. Finally, the level of protection provided to a protectee should be informed by the professional judgment of law enforcement professionals, in consultation with the protectee.

Additionally, when referring to the GAO, Department of Justice and Department of Homeland Security reports concerning threat assessments, the OIG report should clarify that these documents are designed for very different audiences with regards to a terrorist threat assessment versus a threat assessment performed in connection with protective services. The DHS Lexicon refers to homeland security risks and the DOJ report concerns the protection of critical infrastructure from terrorist acts; only GAO discusses threat assessments in the context of protective services.

Importantly, the GAO report did not specify how protective intelligence should be shared among agencies; how best to link threat assessment with the need for protection and level of protection provided; who should provide protection; whether agencies should be provided with specific statutory authority to provide protection; what training should be provided to personnel protecting federal officials, nor who should provide it. Rather, GAO recommended that the Director of the Office of Management and Budget, in consultation with the President, designate an official or group to assess these matters. OECA is not aware of this group being convened by OMB.

OECA is aware that on June 21, 2018, OMB released a government reform plan that recommends consolidating the protective details of certain government official under the U.S. Marshalls Service. In this recommendation, OMB proposes that: “The number of Deputy U.S. Marshals provided for any approved protection of an official would vary based on the individual’s threat assessment *and risk*.” According to OMB, currently agencies have full autonomy in determining the size and scope of their details’ activities. Under this proposal, “[d]eterminations as to whether protection would be provided and its size and scope would be made by the USMS in consultation with affected agency heads.”

OECA believes that a number of salient points raised in the GAO report should be reflected in the OIG’s final report to more accurately characterize that in fact threat assessments are done differently at different agencies based on many factors, and that EPA’s practices are consistent with other agencies. These would include:

- “Security officials generally said they determined their officials needed protection as a result of possible threats and actual threats received from individuals who were (1) opposed to the policies and issues being handled by their agencies, (2) apparently suffering from mental problems, (3) opposed to the officials personally, and (4) terrorists.”
- “Security officials also said the level of protection provided was determined by a variety of factors, including the sensitivity of issues being handled by the agency, the visibility of the protected officials to the public, travel needs, and the officials’ personal preferences.”
- “Who decided the level of protection to be applied varied from agency to agency. Security officials at six of the 27 agencies indicated that the protected officials decided their overall level of protection on the basis of their personal preferences and sometimes upon the recommendations of their security staffs. At eight agencies, security officials said the level of protection provided was decided jointly by them and the protected officials on the basis of actual and perceived levels of threat against the agencies and the protected officials. With regard to the other 13 agencies that provided protection, including the agencies with security protection as one of their primary missions, security officials said they, and occasionally with input from other staff, decided the level of protection on the basis of protective intelligence.”

In addition, the OIG’s final report should reflect the findings of the 1998 U.S. Secret Service study cited by GAO, including the finding that persons who make threats are often not the persons who actually carry out an attack. Thus, an assessment of known threats does not obviate the need for physical security.

RECOMMENDATION 4: *Using a justified level of protection based on a threat assessment, determine appropriate staffing and corresponding schedules for Protective Service Detail agents.*

- ***OECA Response: Disagree.*** OECA understands that the OIG believes conducting threat assessments is a “best practice” and agrees with this view as stated in our response to Recommendation 3. However, the assessment itself cannot solely dictate the level of protection. Recommendations regarding the level of protection are informed by the professional judgment of law enforcement professionals in consultation with the protectee.

RECOMMENDATION 5: *Create and implement comprehensive policies, procedures and standard operating procedures covering the Protective Service Detail operations and proper protection level determinations.*

- ***OECA Response: Agree in part.*** OCEFT’s policies, procedures and guidance (collectively called “directives”) flow from the law enforcement authority conferred by 18 U.S.C. § 3063, and govern Special Agents’ conduct as law enforcement officers ranging from the carry and use of firearms, use of force, the execution of warrants, making of arrests, etc. These directives apply to all OCEFT law enforcement officers, including those serving on the PSD.

In addition to OCEFT’s directives, the PSD has standard operating procedures specific to protective services, which were developed by former United States Secret Service agents based on their protection experience and provide a level of consistency, effectiveness and efficiency to PSD operations. OCEFT is in the process of updating these SOPs, which we anticipate finalizing by September 30, 2018, and issued interim guidance governing PSD activities until the SOPs are finalized.

RECOMMENDATION 6: *Determine the amount of overtime that was improperly authorized for Protective Service Detail agents in calendar years 2016 and 2017 and identify the amounts paid as improper payments.*

- ***OECA Response: Disagree.*** We do not believe that these payments themselves were improper as they were made to the employees for actual work performed.

Office of Management and Budget Circular A-123, Appendix C, Requirements for Effective Measurement and Remediation of Improper Payments; and the Improper Payments Elimination and Recovery Improvement Act of 2012 inform agencies as to what constitutes an “improper payment.” Appendix C of the Circular defines an improper payment as any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. Incorrect amounts are overpayments or underpayments that are made to eligible recipients. The payments made to PSD agents were, in fact, payments made for actual overtime worked and as such, these payments were not improper even though the pre-approval requests for overtime may not have been according to best practices.

OECA confirmed with EPA's Office of the Chief Financial Officer that OCFO agrees that the payments made to the PSD agents were not improper. OCEFT acknowledges that for a period of time, the PSD Special Agent in Charge was signing paper pre-approvals for overtime and has since corrected that to ensure even the paper pre-approvals are reviewed and signed by the appropriate OCEFT official.

RECOMMENDATION 7: *Report improper payments to Protective Service Detail agents to the Office of the Chief Financial Officer for inclusion in the annual Agency Financial Report.*

- ***OECA Response: Disagree.*** As state above, OECA does not believe PSD time, including overtime, were improper payments. As such, Chapter 4 should be revised to reflect that or struck in its entirety.

Recommendation 8: *Revisit the office's decision to terminate the debt collection associated with the Protective Service Detail agent who had received the overpayment.*

- The Office of General Counsel, through the Acting EPA Claims Officer, on June 4, 2018, reopened the waiver decision in which the Protective Services Detail agent's debt for overpayment was terminated. Therefore, recommendation 8 should be should be removed from the draft report and the report should be revised accordingly.

Recommendation 9: *Request a pay audit of the calendar year 2017 wages for the Protective Service Detail agent who had received the overpayment and determine the amount the agent exceeded the 2017 pay cap.*

- ***OCFO Response: Agree.*** The OCFO's Office of Technology Solutions completed an internal analysis leveraging the IBC DataMart data and provided to the OIG on June 25, 2018. The analysis was of unauthorized payments above the annual statutory pay cap that have been made to other EPA employees in 2016 and 2017. The PSD agent information was included. OCFO requested a pay audit from IBC on June 27, 2018.

Corrective Action Completion Date: September 30, 2018

OIG Recommendation 10: *Recover the \$16,299.33 for which the waiver for the Protective Service Detail agent who had received the overpayment was denied and any additional overpayment determined by the pay audit.*

OCFO Response: Agree.

The OCFO will collect any and all debts upon completion of the OGC's review and final determination.

Corrective Action Completion Date: September 30, 2018.

OIG Recommendation 11: *Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.*

OCFO Response: Agree.

The OCFO has worked to strengthen controls related to pay cap lift requests since early 2017.

In 2016, requests for a retroactive pay cap lift were manually processed – retroactively submitted timecards would be printed, signed, and sent to the Department of Interior’s IBC Payroll Operations Center for manual time entry by IBC technical staff into the Federal Personnel Payroll System. Timecards also were manually recorded with the code “LB” or “lift biweekly” instructing the payroll provider to lift the pay cap and apply premium pay based on the employee’s pay plan and locality to the annual limit. This manual adjustment/override process in PeoplePlus circumvented FPPS controls over biweekly limits which allowed the overpayments in question to occur.

In February 2017, the OCFO fixed a defect in PPL which allowed manual timecards submitted for retroactive pay cap lifts to be sent to the payroll provider. The defect fix eliminated this manual override; the PPL system functionality now only permits electronic updates of timecards to be sent to IBC, thus permitting the system to perform an automated validation to ensure biweekly pay is processed as intended.

In September 2017, the OCFO introduced the Pay Cap Lift SharePoint site which is a tool that created a more effective way for the OCFO to receive pay cap lift requests. The process requires the Shared Service Center to enter and upload all pay cap lift request information and supporting documentation into one central location. The site automatically creates an EPA help desk ticket notifying the OCFO that a pay cap lift request for an employee has been submitted. The OCFO confirms the information supporting the request. If the request is not supported and or there is missing information, the OCFO works with the Shared Service Center and/or the employee until issues are resolved; requests that are not supported are not processed. If the information for the request is in order, the action is processed using the PPL which includes the employee’s information and pay cap start and end dates. This information is electronically transmitted to the IBC and informs the payroll provider that it is “okay” to calculate overtime pay on the hours and dates submitted. The IBC internally calculates the biweekly pay amount for that time period, checking that the employee pay amount is not over the annual limit. The site provides a central location for submitting, supporting, tracking and processing of an employee’s pay cap lift request.

At an IBC meeting earlier this month, the group voted on an FPPS system change which will check that “any biweekly pay cap lift request is edited against the proper year”. This is an IBC internal control that will ensure that pay cap lift requests received from the agency are reviewed against the year worked. The implementation date is yet to be determined.

Finally, the Office of Administration and Resources Management’s Office of Human Resources provides to the agency the pay cap request process guidance and controls in the following documents 1) Pay Administration Manual, Chapter 15-Policy on Limitation of Pay, October 1991, which provides pay cap waiver guidance and Delegation of Authority; 2) Pay

Administration Manual, Appendix 3-Authorization for an Exception to the Biweekly Maximum Earnings Limitation, October 1991, which provides authorization by the designated Delegated Authority and the Human Resources Officer; and 3) Biweekly Pay Cap Waiver Standard Operating Procedures, June 2015, which provides procedures for processing waivers to the Biweekly Maximum Earning Limitation for employees working overtime in emergencies involving direct threats to life or property and/or natural disaster.

The combination of system improvements made to PPL, the implementation of the SharePoint site, and the IBC FPPS improvement, coupled with the OARM's OHR guidance on premium pay and premium pay requests will further strengthen the pay cap lift request process and ensure the process performs as needed to avoid exceeding biweekly or annual pay caps inappropriately.

By September 2018, in conjunction with the review of sensitive payments, the OCFO will conduct a statutory pay cap internal control review. This review, in accordance with OMB A-123, Appendix A, will validate existing controls are in place to mitigate agency employees exceeding the biweekly pay cap. In the event a pay cap lift is necessary, this review will verify proper waiver documentation is in place.

Corrective Action Completion Date: September 30, 2019

OIG Recommendation 12: *Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees in 2016 and 2017, and recover any overpayments as appropriate.*

- **OCFO Response:** Agree.

OCFO-OTS provided an analysis of unauthorized payments above the annual statutory pay cap that have been made to other EPA employees in 2016 and 2017 to the OIG.

Corrective Action Completion Date: June 25, 2018

CONTACT INFORMATION

If you have any questions regarding this response, please contact Gwendolyn Spriggs, OECA's Audit Follow Up Coordinator on (202) 564-2439, or via email spriggs.gwendolyn@epa.gov; Benita Deane, OCFO's Audit Follow Up Coordinator on (202)- 564-2079, or via email deane.benita@epa.gov; Mahri Monson, OGC's Follow Up Coordinator on (202) 564-2657, or via email monson.mahri@epa.gov.

cc: Larry Starfield
Patrick Traylor
Gwendolyn Spriggs
Henry Barne
Pam Mazakas
Jessica Taylor
Carolyn Dick Mayes

David Bloom
Howard Osborne
Jeanne Conklin
Quentin Jones
Meshell Jones-Peeler
Malena Brookshire
Kevin Minoli
Mahri Monson
Benita Deane

Attachments

Agency Response to Revised Recommendations



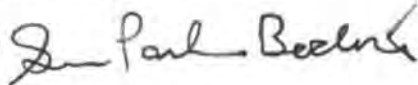
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 14 2018

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: OECA Comments on Revisions to Recommendations in the OIG Draft Report, "*Agents Assigned to Protective Service Detail Lack Statutory Authority to Protect the EPA Administrator*," Project No. OA-FY16-0265, dated May 30, 2018

FROM: Susan Parker Bodine, Assistant Administrator 

TO: Arthur Elkins, Inspector General

CC: Matthew Z. Leopold, General Counsel
Holly W. Greaves, Chief Financial Officer

On June 29, 2018, the Office of General Counsel, the Office of Enforcement and Compliance Assurance, and the Office of the Chief Financial Officer provided comments (both narrative and a red-line strikeout) on OIG Project No. OA-FY16-0265, relating to the Administrator's protective service detail. On that date you also received an Opinion of the Office General Counsel identifying the source of the Agency's legal authority to provide protective services to the Administrator.

On July 23, 2018, we met with Charles Sheehan and members of the OIG staff to discuss the unsupported statements in the Draft Report for OIG Project No. OA-FY16-0265. It was our understanding from that meeting that the OIG recognized there were significant problems with the original Draft Report and would be making extensive changes, including considering revising the Report title, since the title of the Draft Report was inaccurate and misleading. Given this unusual circumstance and to ensure our comments are relevant to the actual report to be released by the OIG, we requested the opportunity to review and comment on the revised report. However, the OIG denied this request.

The July 23, 2018, meeting was an exit conference to discuss the agency's response to the draft report and any changes that the OIG intended to make to the report. It is not unusual, based on agency comments and the discussions that take place at an exit conference, for the OIG to make edits to its draft report, including the report title. In the OIG's opinion, the draft report was not inaccurate or misleading, and the changes made as a result of the agency's responses and discussions were not significant or extensive. Although the agency requested to review the report revisions and provide a response, this request was not honored because it would essentially be a reissuance of the draft report, which is not in line with established reporting processes.

Instead, on August 1, we received an email with changes to recommendations 2, 3, and 4. We are left to assume that all of chapter 2, on which recommendations 1 and 2 were based, as well as all of chapter 3, on which recommendations 3, 4, and 5 were based, remain in the report, despite the unsupported statements in those chapters.

In the OIG's opinion, there were no unsupported statements in the draft report and all facts and figures were independently verified prior to issuance.

Accordingly, the June 29, 2018, comments, including the memorandum and the red-line strikeout, remain the Agency's response to the Draft Report, and this memorandum addresses only the revised recommendations. For those recommendations with which the Agency agrees, we have provided corrective actions and estimated completion dates. For those recommendations with which the Agency does not agree, we have explained our position and proposed alternatives to the recommendations.

In compliance with OIG practices, agency red-line comments are considered but are not always incorporated into the final OIG report.

It is important to understand, with respect to Recommendations 3 and 4, that a threat analysis, while informative, is not dispositive of a decision to provide protection nor what level of protection should be provided. Further, the lack of threats does not mean that there is no risk or that protective services are not justified. If Recommendations 3 and 4 are not revised as suggested below, the Agency non-concurs on both.

The OIG agreed in the exit conference on July 23, 2018, to use the term threat analysis in the report. The threat analysis encompasses a threat assessment, other risks, and the concerns of the protectee. Also, the threat analysis in its entirety documents and justifies the proper level of protection required for the Administrator.

Please include both today's comments and those submitted on June 29 in your final report on the Protection Service Detail.

AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS:

Agreements:

No.	Revised Recommendation	Response	Intended Corrective Action(s)	Estimated Completion by Date, Quarter and FY
2	Implement the Office of General Counsel opinion through new policies, procedures and/or guidance that defines the amount of time agents must spend on investigating environmental crimes and how the time will be monitored and documented by supervisors.	Concur.	OECA/OCEFT will develop new policies, procedures and/or guidance that defines the amount of time agents must spend on investigating environmental crimes, informed by the General Counsel opinion.	Initiated tracking time agents spend investigating environmental crimes September 30, 2017 (4 th quarter 2017). Develop policies, procedures, and/or guidance by September 30, 2018 (4 th quarter FY 2018).
3	Have the Office of Criminal Enforcement, Forensics and Training complete and document a threat <i>analysis</i> for the EPA Administrator on a regular basis to <i>justify</i> the proper level of protection required for the Administrator.	Concur if revised to state, "Have OECA/OCEFT complete and document a threat analysis for the EPA Administrator on a regular basis." As discussed in the Agency's June 29, 2018 response to the draft report, a threat analysis, while informative, is not dispositive of a decision to provide protection nor what level of protection should be provided. Further, the lack of threats does not mean that there is no risk or that protective services are not justified.	1.OECA/OCEFT to conduct and document a threat analysis on a regular basis (approximately twice a year). 2.OECA AA and law enforcement professionals in the PSD to discuss threat analyses with the Administrator to inform decisions regarding level and type of protection.	Regular threat analyses initiated January 2018 (2 nd quarter FY 2018).

4	Using a justified level of protection based on a threat <i>analysis</i> , determine appropriate staffing and corresponding schedules for Protective Service Detail agents.	See comments above regarding recommendation 3. Concur if revised to state, "OECA should provide information, including the results of a threat analysis and discussions with the protectee, to help inform decisions regarding the appropriate level of protection. OCEFT should then establish the staffing and corresponding schedules for Protective Service Detail agents."	OECA/OCEFT to manage staffing and scheduling of the Administrator's protective service detail based on the level of protection.	Initiated February 2017 (2 nd quarter FY 2017).
---	--	---	---	--

CONTACT INFORMATION:

If you have any questions regarding this response, please contact Gwendolyn Spriggs, OECA's Audit Follow Up Coordinator on 202-564-2439, or via email, spriggs.gwendolyn@epa.gov.

Attachments:

1. Agency response dated June 29, 2018
2. Agency tracked changes of Draft Report
3. OGC Legal Opinion dated June 29, 2018

cc: R. Jackson, OA/COS
C. Sheehan, OIG/DIG
K. Christensen, OIG/AIG
J. Trefry, OIG/Director
L. Starfield, OECA/PDAA
P. Traylor, OECA/DAA
H. Barnet, OCEFT/OECA/Director
P. Mazakas, OCEFT/OECA/Director
M. Monson, OGC/AFC
B. Trent, OCFO/AFC
G. Spriggs, OECA/AFC

Distribution

The Administrator
Deputy Administrator
Chief of Staff
Special Advisor, Office of the Administrator
Chief Financial Officer
Assistant Administrator for Enforcement and Compliance Assurance
General Counsel
Agency Follow-Up Coordinator
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for Public Affairs
Deputy Chief Financial Officer
Associate Chief Financial Officer
Controller, Office of the Controller, Office of the Chief Financial Officer
Principal Deputy Assistant Administrator for Enforcement and Compliance Assurance
Deputy Assistant Administrator for Enforcement and Compliance Assurance
Principal Deputy General Counsel
Associate General Counsel, General Law Office, Office of General Counsel
Director, Office of Criminal Enforcement, Forensics and Training,
 Office of Enforcement and Compliance Assurance
Director, Office of Continuous Improvement, Office of the Administrator
Audit Follow-Up Coordinator, Office of the Administrator
Audit Follow-Up Coordinator, Office of the Chief Financial Officer
Audit Follow-Up Coordinator, Office of Enforcement and Compliance Assurance
Audit Follow-Up Coordinator, Office of General Counsel



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

***Congressional Request and Hotline Report:
Compliance with the law
Operating efficiently and effectively***

Actions Needed to Strengthen Controls over the EPA Administrator's and Associated Staff's Travel

Report No. 19-P-0155

May 16, 2019



Report Contributors:

Angela Bennett
Lela Wong
John Trefry
Kristin Kafka

Abbreviations

CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
FIAT	Fast International Approval of Travel database
FTR	Federal Travel Regulation
GSA	General Services Administration
OA	Office of the Administrator
OCFO	Office of the Chief Financial Officer
OGC	Office of General Counsel
OHS	Office of Homeland Security
OIG	Office of Inspector General
OITA	Office of International and Tribal Affairs
PSD	Protective Service Detail
RMDS	Resource Management Directive System

Cover Image: Photo of an airplane, obtained from the GSA travel [website](#).

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

EPA Inspector General Hotline

1200 Pennsylvania Avenue, NW (2431T)
Washington, DC 20460
(888) 546-8740
(202) 566-2599 (fax)
OIG_Hotline@epa.gov

Learn more about our [OIG Hotline](#).

EPA Office of Inspector General

1200 Pennsylvania Avenue, NW (2410T)
Washington, DC 20460
(202) 566-2391
www.epa.gov/oig

Subscribe to our [Email Updates](#)
Follow us on Twitter [@EPAoig](#)
Send us your [Project Suggestions](#)



At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) received numerous congressional requests and hotline complaints expressing concerns about former EPA Administrator Scott Pruitt's travel, as well as that of those traveling with him. The objectives of this audit were to determine the frequency, cost and extent of the former Administrator's travel through December 31, 2017; whether the Federal Travel Regulation and applicable EPA travel policy and procedures were followed; and whether the EPA's policy and procedures were sufficiently designed to prevent fraud, waste and abuse with the Administrator's travel.

This report addresses the following:

- *Compliance with the law.*
- *Operating efficiently and effectively.*

Address inquiries to our public affairs office at (202) 566-2391 or OIG_WEBPOSTINGS@epa.gov.

List of [OIG reports](#).

Actions Needed to Strengthen Controls over the EPA Administrator's and Associated Staff's Travel

What We Found

The OIG identified 40 trips and \$985,037 in costs associated with the former Administrator's travel for the 10-month period from March 1, 2017, to December 31, 2017. This covered 34 completed and six canceled trips and included costs incurred not only by the former Administrator but by his Protective Service Detail (PSD) and other staff. Of the 40 trips, 16 included travel to, or had stops in, Tulsa, Oklahoma—the location of the former Administrator's personal residence.

Actions need to be taken to strengthen controls over Administrator travel to help prevent the potential for fraud, waste and abuse.

We estimated excessive costs of \$123,942 regarding the former Administrator's and accompanying PSD agents' use of first/business-class travel because the exception that allowed for the travel accommodation was granted without sufficient justification and, initially, without appropriate approval authority. Although the EPA's travel policy is sufficiently designed to prevent fraud, waste and abuse and is consistent with the Federal Travel Regulation, we found that the policy did not initially outline who had the authority to approve the Administrator's travel authorizations and vouchers.

We also found that not all applicable provisions of the Federal Travel Regulation and/or EPA travel policy were followed. We identified:

- Improper granting of first/business-class exceptions.
- Unjustified use of non-contract air carriers.
- Improper approval of lodging costs above per diem.
- Missing detailed support for trips with stops in Tulsa.
- Improper approval of international business-class travel.
- Inaccurate and incomplete international trip reports.

The former Administrator's use of military/chartered flights was justified and approved in accordance with the Federal Travel Regulation and EPA policy.

Recommendations and Agency Response

We recommend that the agency determine whether the estimated excessive airfare of \$123,942 and any additional costs through the former Administrator's resignation in July 2018 should be recovered; implement controls to verify that requirements are met for the use of first/business-class travel; enforce requirements for use of a city-pair contract carrier; confirm adequate cost comparisons; and clarify requirements for preparing international trip reports and verify for accuracy and completeness. Of the report's 14 recommendations, we consider the agency's planned corrective actions acceptable for four of the recommendations while the other 10 are unresolved.



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

OFFICE OF
INSPECTOR GENERAL

May 16, 2019

MEMORANDUM

SUBJECT: Actions Needed to Strengthen Controls over the EPA Administrator's
and Associated Staff's Travel
Report No. 19-P-0155

FROM: Charles J. Sheehan, Deputy Inspector General

A handwritten signature in blue ink that reads "Charles J. Sheehan".

TO: Holly Greaves, Chief Financial Officer

Ryan Jackson, Chief of Staff

Chad McIntosh, Assistant Administrator
Office of International and Tribal Affairs

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY17-0382. This report contains findings that describe the problems the OIG has identified and the corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

Of our 14 recommendations, we consider the planned correctives actions for four of the recommendations to be completed or acceptable and the remaining 10 recommendations (1, 2, 4, 5, 6, 7, 9, 12, 13 and 14) to be unresolved. In accordance with EPA Manual 2750, the resolution process begins immediately with the issuance of the report. We are requesting that the agency initiate the audit resolution process within 30 days of final report issuance. If resolution is not reached, the agency is required to complete and submit a dispute resolution request to the appropriate official to continue resolution.

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

Table of Contents

Chapters

1	Introduction	1
	Purpose	1
	Background.....	1
	Responsible Offices	2
	Prior Audit Reports.....	3
	Scope and Methodology	4
2	Frequency, Cost and Extent of the Former Administrator's Official Travel.....	6
	Cost and Extent of Travel.....	6
	Frequency of Travel to Tulsa, Oklahoma	9
	Agency Comments and OIG Evaluation.....	11
3	Improper Approvals for First/Business-Class Travel Resulted in Excessive Airfare.....	13
	Actions Taken	15
	Recommendations	16
	Agency Comments and OIG Evaluation.....	16
4	Actions Needed to Strengthen Internal Controls over Travel	18
	No Formal Delegation for Approval of Administrator's Travel Documents.....	19
	First/Business-Class Exceptions Granted Without Sufficient Justification to Support Security Concern	20
	<i>Recommendations</i>	24
	<i>Agency Comments and OIG Evaluation</i>	24
	Justification for Use of Non-Contract Air Carriers Not Always Documented.....	25
	<i>Recommendation</i>	27
	<i>Agency Comments and OIG Evaluation</i>	27
	No Documentation to Verify Whether First/Business-Class Carriers and Flights Selected Were Compliant with the FTR.....	28
	<i>Recommendations</i>	29
	<i>Agency Comments and OIG Evaluation</i>	29

Unjustified and Improper Approvals for Lodging Costs Above 150 Percent of Per Diem	30
<i>Recommendation</i>	33
<i>Agency Comments and OIG Evaluation</i>	33
Missing Detailed Support for Trips with Stops in Tulsa	33
<i>Recommendation</i>	35
<i>Agency Comments and OIG Evaluation</i>	35
Inaccurate and Incomplete International Trip Reports	35
<i>Recommendations</i>	38
<i>Agency Comments and OIG Evaluation</i>	38
Improper Approval of Staff and PSD Use of Business-Class Travel for International Trips	38
<i>Recommendations</i>	40
<i>Agency Comments and OIG Evaluation</i>	40
Justified Use of Military and Charter Flights	41
<i>Agency Comments and OIG Evaluation</i>	43
Status of Recommendations and Potential Monetary Benefits	44

Appendices

A	Cost Details for Trips Taken by Former Administrator	46
B	Cost Details for Former Administrator's Canceled Trips	48
C	Former Administrator's Travel Costs by Cost Category	49
D	Agency Response to Draft Report and OIG Comments	51
E	Office of General Counsel Legal Opinion – Authority to Grant First Class Exceptions under Delegations 1-17A and 1-17B	70
F	Office of the Chief Financial Officer – Redefinition of Authority to Approve Other than Coach-Class (First-Class) Accommodations for Official Travel	72
G	Office of the Controller – Retroactive Approval of Other Than Coach-Class Accommodations	74
H	Office of the Administrator – Amendments to Delegations 1-17A and 1-17B Relating to Other than Coach-Class Travel	76
I	Distribution	78

Chapter 1

Introduction

Purpose

As a result of numerous congressional requests and hotline complaints, the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) conducted an audit of the EPA's adherence to its policy, procedures and oversight controls pertaining to Administrator Scott Pruitt's travel. Pruitt resigned as Administrator in July 2018, after our audit was initiated. Our audit objectives were to determine:

- The frequency, cost and extent of the former Administrator's travel through December 31, 2017.
- Whether applicable EPA travel policy and procedures were followed for the former Administrator's travel, as well as security personnel and other EPA staff traveling with or in advance of the former Administrator.
- Whether EPA's policy and procedures are sufficiently designed to prevent fraud, waste and abuse with the Administrator's travel.

Background

The EPA OIG received numerous congressional requests and hotline complaints on then Administrator Pruitt's travel. The initial hotline complaint, on July 24, 2017, raised concern about Pruitt's frequent travel to and from his home state of Oklahoma at taxpayer expense. On July 28, 2017, the OIG received a congressional request to audit the EPA's adherence to policies and procedures for the Administrator's travel, and whether the EPA's applicable oversight controls are sufficient to prevent fraud, waste and abuse. While the OIG's initial scope included an audit of Pruitt's travel through July 31, 2017, subsequent requests and hotline complaints prompted the OIG to extend its audit scope twice to cover more of Pruitt's travel—through September 30, 2017, and then through December 31, 2017.

Federal Travel Requirements

The Federal Travel Regulation (FTR), issued by the U.S. General Services Administration (GSA), is codified in 41 CFR Chapters 300 through 304. The FTR implements statutory requirements and executive branch policies for travel by federal civilian employees and others authorized to travel at the government's expense. The GSA promulgates the FTR to: (a) interpret statutory and other policy requirements in a manner that balances the need to assure that official

travel is conducted in a responsible manner with the need to minimize administrative costs, and (b) communicate the resulting policies in a clear manner to federal agencies and employees.

EPA Policy and Procedures

The EPA's travel policy—Resource Management Directive System (RMDS) 2550B, *Official Travel*, applies to EPA and other federal employees who travel using agency funds. The policy also addresses travel that nonfederal sources fund for EPA employees.

The version of the travel policy applicable to the period of our audit was issued on April 17, 2015. The policy states that the FTR is the first source of reference for all federal travel. To minimize repetition, the EPA travel policy does not repeat each travel entitlement that is listed in the FTR. Rather, the policy discusses the guidelines for the EPA's "discretionary allowances." The policy further states that all EPA employees and travel-authorizing officials shall know and comply with the FTR and EPA travel policy and procedures, and all travel requests and authorizations require compliance with the FTR and EPA policy.

Responsible Offices

Various EPA offices are involved in the Administrator's travel:

- **Office of the Administrator (OA).** OA staff plan and coordinate the Administrator's travel. These responsibilities include screening requests for the Administrator's travel engagements; making travel arrangements; coordinating with the Protective Service Detail (PSD) for protection of the Administrator; and preparing, reviewing and approving travel authorizations and vouchers.
- **Office of the Chief Financial Officer (OCFO).** The OCFO manages the EPA travel program for compliance with federal regulations and EPA policy, and monitors the travel program's effectiveness. The OCFO's Office of the Controller issues policies and procedures for official EPA travel. The OCFO's Cincinnati Finance Center manages the EPA Concur travel system, maintains the travel help desk, assists with travel training requests, serves as the EPA travel payment office, and pays proper travel claims (e.g., allowable expenses with required receipts).
- **Office of International and Tribal Affairs (OITA).** This office leads the EPA's international and tribal engagements; works with other federal agencies and international countries to address bilateral, regional and global environmental challenges; and advances U.S. foreign policy objectives. The Office of Management and International Services within OITA is responsible for providing the full range of necessary management and

administrative functions that support the agency's international programs and coordinates cross-cutting administrative support services.

- **Office of Enforcement and Compliance Assurance.** The Office of Criminal Enforcement, Forensics and Training, within the Office of Enforcement and Compliance Assurance, is delegated the responsibility for providing protective services to the Administrator. The PSD, which provides these protective services, falls within the Office of Criminal Enforcement, Forensics and Training.

Prior Audit Reports

On December 11, 2013, we issued *Early Warning Report: Internal Controls and Management Actions Concerning John C. Beale's Travel* (Report No. [14-P-0037](#)). The OIG found that the EPA's lack of management oversight and weak internal controls enabled travel abuses by John Beale, a former Senior Policy Advisor for the Office of Air and Radiation. These travel abuses included:

- Using premium-class travel.
- Incurring lodging expenses above per diem amounts.
- Charging questionable travel and transportation costs.

We made no recommendations in the early warning report because we only conducted the audit to determine the policies that facilitated Beale's fraud.

In addition to the above early warning report, the EPA OIG issued a report on May 10, 2011, *EPA Needs to Strengthen Management Controls Over Its Travel Authorization Process* (Report No. [11-P-0223](#)). We reported that the EPA travel program lacked sufficient management controls to properly route and authorize travel documents. Also, the EPA travel system allowed unauthorized personnel to self-approve travel and did not control routing lists to verify independent review of travel. The report did not identify any instances of fraud. We made four recommendations to the agency. The agency completed corrective actions in September 2011.

On September 22, 2015, the OIG issued a report, *EPA Needs Better Management Controls for Approval of Employee Travel* (Report No. [15-P-0294](#)). The report identified weak internal controls that made EPA travel dollars vulnerable to fraud, waste and abuse. We recommended that the EPA evaluate the effectiveness of its *Executive Approval Framework*, review quarterly reports for frequent travelers traveling to the same location, and submit irregularities to the OCFO. We also recommended that the EPA update its travel policy to reflect changes pertaining to lodging, international trip reports and travel card refresher training; and that the EPA reconcile annual premium-class travel reports. The agency completed corrective actions in May 2016.

On September 4, 2018, the OIG issued another report, *EPA Asserts Statutory Law Enforcement Authority to Protect Its Administrator but Lacks Procedures to Assess Threats and Identify the Proper Level of Protection* (Report No. 18-P-0239). The OIG made numerous recommendations for corrective action; however, only one finding and recommendation, pertaining to the level of protection of the Administrator, was relevant to this audit. Details on what we found in that prior report plus the agency's response follow:

- The OIG found that the PSD did not conduct a threat analysis to determine the level of protection necessary or desired for former Administrator Pruitt. Rather the PSD used an August 16, 2017, memorandum, titled *Summary of Pending and Recent Threat Investigations*, requested by the agency from the OIG, to support the increased level of protection. In Chapter 4 of this current report, the section *First/Business-Class Exceptions Granted Without Sufficient Justification to Support Security Concern* discusses the PSD's use of the OIG report to justify the granting of first/business-class exceptions based on security concerns.
- On April 3, 2018, in response to Report No. 18-P-0239, Office of Criminal Enforcement, Forensics and Training management asserted that the office was performing a "threat assessment" as part of its threat analysis every 90 days for operational purposes. Also, the Office of Criminal Enforcement, Forensics and Training said that it would be working with other EPA offices and the OIG to determine which office is best positioned to perform threat assessments in the future.¹ We recommended that the agency complete a threat analysis on a regular basis to identify the proper protection required for the Administrator. The recommendation is unresolved with resolution efforts in progress.

Scope and Methodology

We conducted this audit from September 2017 to November 2018, in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions presented in this report.

To determine the frequency, cost and extent of the former Administrator's travel, including the travel costs of his security detail and other staff who accompanied

¹ Protection of the Administrator and determining which EPA office is best positioned to perform threat assessments is an internal agency decision; the OIG plays no role in these matters.

him, we obtained and analyzed travel data from the EPA's Compass Data Warehouse.²

To determine whether applicable EPA travel policy and procedures were followed for the former Administrator and others, we:

- Interviewed management and staff in the OA; OCFO; the Office of General Counsel; the Office of Criminal Enforcement, Forensics and Training; and OITA to determine the process used to approve and process authorizations and vouchers.
- Obtained and reviewed all travel vouchers and receipts for the former Administrator. For others, we selected a judgmental sample of vouchers and receipts for review.

To determine whether EPA policy and procedures are sufficiently designed to prevent fraud, waste and abuse with the Administrator's travel, we reviewed the policy and procedures, as well as travel documents, for compliance with the FTR.

² The Compass Data Warehouse is a collection of data from various EPA information systems, including Compass and the Travel Document System. The data in the warehouse are refreshed daily. Therefore, downloads from the warehouse represent accounting system data.

Chapter 2

Frequency, Cost and Extent of the Former Administrator's Official Travel

The OIG identified \$985,037 in travel costs associated with former Administrator Pruitt's official travel for the 10-month period from March 1, 2017, to December 31, 2017. This amount covered 40 planned trips—34 completed and six canceled—and included costs incurred by the former Administrator, the PSD and other staff. Of the 34 completed trips, 16 included travel to, or had stops in, Tulsa, Oklahoma—the location of the former Administrator's personal residence. The amount also covered costs for military and charter flights taken by the former Administrator. Details on audit issues and recommendations pertaining to the former Administrator's travel are in Chapters 3 and 4.

Travel costs include airfare, lodging, per diem, and other expenses.

Cost and Extent of Travel

Travel costs associated with the former Administrator's official travel totaled \$985,037, consisting of \$878,336 for the 34 trips taken (for breakdown of costs see Appendix A) and \$106,701 for the six trips canceled (for breakdown of costs see Appendix B). Based on data obtained from the EPA's Compass Data Warehouse, the former Administrator's first trip while at the EPA was on March 6, 2017, and his advance team started traveling on March 1, 2017. From March 6, 2017, to December 31, 2017, the former Administrator took 32 domestic and two international trips. Trip costs were incurred by the former Administrator, travel and advance staff, the PSD, OITA³ and other EPA offices.⁴ The travel costs also included military and charter flights paid outside of the EPA's travel management system.

Six trips planned for the former Administrator, including four domestic and two international, were canceled. According to the agency, four of the six trips were canceled due to circumstances outside of the EPA's control. Although trips were canceled, travelers incurred costs resulting from cancellation fees/no-show hotel charges and service fees. In some instances, the former Administrator's advance staff and PSD were in travel status prior to the trip cancellation, resulting in lodging, per diem, transportation and other miscellaneous travel costs. Canceled trips represent approximately 11 percent of the total costs incurred (\$106,701 of \$985,037). Table 1 provides a breakdown of costs incurred for all travel.

³ OITA staff are part of the advance team for international trips, helping with all aspects of the coordination and logistics because of their expertise on international travel.

⁴ Other EPA offices from which staff traveled with the former Administrator include the Office of Public Affairs, Office of Multimedia, Office of Public Engagement, Office of Congressional and Intergovernmental Relations, and Office of Policy.

Table 1: Total costs incurred for all travel

Trip type	No. trips	Former Administrator	Staff	PSD	Other*	Totals
Trips Taken:						
Domestic	32	\$85,131	\$203,443	\$301,865	\$65,692	\$656,131
International	2	26,629	91,544	67,962	36,069	222,205
Subtotal	34	\$111,761	\$294,987	\$369,827	\$101,761	\$878,336
Canceled:						
Domestic	4	\$731	\$3,633	\$4,179	-	\$8,543
International	2	1,995	41,273	54,889	-	98,158
Subtotal	6	\$2,726	\$44,907	\$59,069	-	\$106,701
% for canceled trips**		2.6%	42.1%	55.4%		100%
Total	40	\$114,487	\$339,894	\$428,896	\$101,761	\$985,037
% of Total		11.6%	34.5%	43.5%	10.3%	100%

Source: OIG analysis of travel data from the EPA's Compass Data Warehouse.

Note: Numbers in italics slightly off due to rounding.

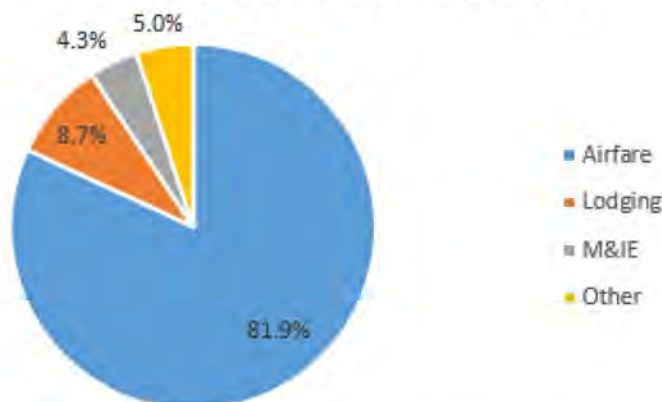
* Other costs represent military and chartered flight costs.

** Costs for each category (former Administrator, Staff, PSD, Other) as a percentage of total costs for all canceled trips.

Former Administrator's Travel by Cost Category

The majority of the former Administrator's costs—approximately 82 percent—was for airfare. This included 16 trips with travel to, or stops in, Oklahoma, during which the former Administrator generally did not incur lodging or meals and incidental expenses every day. However, costs were still incurred by associated travelers. Figure 1 shows a breakdown of the former Administrator's costs by category; a detailed schedule is in Appendix C. We did not analyze the costs incurred by cost category for the PSD and staff from the OA, OITA and other EPA offices.

Figure 1: Former Administrator's costs by cost category



Source: OIG analysis of travel data from the EPA's Compass Data Warehouse and travel vouchers provided by the agency.

M&IE: Meals and incidental expenses

Analysis of the Former Administrator's Flights

Prior to May 2017, all 23 segments flown were coach class. For the remaining 112 flights, we found that between May and December 2017, 76.8 percent of the traveled flight segments for the former Administrator were first class, with only 11.6 percent each for business and coach class, as shown in Table 2.

Delta was the most frequently used airline (76.3 percent of the flights, or 103 of the 135 segments traveled), followed by American (19.3 percent of the flights, or 26 of the 135 segments traveled) and others (4.4 percent of the flights, or six of the 135 segments). Between May and December 2017, when the former Administrator flew first/business class, Delta usage jumped to 81.3 percent from 52.2 percent in March and April 2017. Travel records indicate that the former Administrator was a frequent flyer member with Delta, American and Southwest but not the other airlines used.

Table 2: Summary of former Administrator's flight segments (airlines and travel class)

Travel period (2017)	Total segments flown	Delta	American	Others*		First class	Business class	Coach class
March – April	23	12	10	1		0	0	23
% of Travel		52.2%	43.5%	4.3%				100%
May – December	112	91	16	5		86	13	13
% of Travel		81.3%	14.3%	4.4%		76.8%	11.6%	11.6%
Totals	135	103	26	6		86	13	36
		76.3%	19.3%	4.4%		63.7%	9.6%	26.7%

Source: OIG analysis of EPA travel data, and travel authorizations and vouchers from the Concur travel system.

* "Others" includes the following airlines: Emirate, JetBlue, Southwest and United.

Former Administrator's associated travelers

In addition to PSD agents who provide protective services, the former Administrator was accompanied by his scheduling team and agency senior advisors. On occasion, the former Administrator also was accompanied by the Chief of Staff, a communications specialist and a photographer.

The PSD and OA teams traveled separately and coordinated their own activities. For international travel, a representative from OITA also accompanied the teams. According to the OA's former Director of Scheduling and Advance, the former Administrator's scheduling team for domestic travel averaged one to two people from the OA who traveled one or two days ahead of him. For international travel, the scheduling team averaged two to three people from the OA for a 5-to-7-day period. Based on discussions with OA staff, the makeup of the Administrator's scheduling team varied based on the complexity of the trip (different locations, numbers of meetings, etc.).

The former Administrator's teams coordinated their travel planning with the Associate Administrator of Public Engagement, as well as other program offices that would have staff traveling based on the specific topics involved, and other senior leadership. The advance teams also considered all the former Administrator's travel-related activities and conducted site walk-throughs of all venues.

Our analysis showed that travel for the former Administrator's advance team generally extended through the end of the trips. Based on discussion with a member of the former Administrator's advance team, the staff were busy the entire trip. Once the former Administrator arrived, one person would go on to his next meeting place to make sure everything was ready while the other staff would stay behind to make sure the former Administrator's needs were met and everything proceeded smoothly. These activities were conducted separately from those conducted by the PSD.

Actions Taken

In response to the audit, the Administrator's office provided a draft version of proposed standard operating procedures for the planning and coordination of the Administrator's domestic and international trips, including activities by the advance team (non-PSD) and outside meeting requests. The agency also provided position descriptions outlining the major duties and responsibilities of the Administrator's advance team members, including the Director of Scheduling and Advance, Deputy Director of Scheduling and Advance, and Senior Advance Associate.

Frequency of Travel to Tulsa, Oklahoma

OIG analysis of travel data obtained from the EPA's Compass Data Warehouse showed that of the 34 trips the former Administrator took from March 2017 through December 2017, 16 trips of these trips (47 percent) were to, or had stops in, Tulsa, Oklahoma. Details are in Table 3.

Table 3: Trips to, or stops in, Tulsa

	Former Administrator's travel period*	Days of the week	Destination	Purpose of trip	Purpose of Tulsa stay
1	03/06/17 – 03/07/17	Mon – Tue	Scottsdale, AZ Tulsa, OK	Speaking	Personal
2	03/08/17 – 03/12/17	Wed – Sun	Houston, TX Tulsa, OK	Speaking	Personal
3	03/23/17 – 03/27/17	Fri – Tue	Oklahoma City, OK Tulsa, OK	Speaking	Personal
4	04/12/17 – 04/24/17	Thu – Wed	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	Tour/speaking/ meeting	Speaking/ meeting
5	05/04/17 – 05/08/17	Thu – Mon	Tulsa, OK	Meeting	Meeting
6	05/11/17 – 05/15/17	Thu – Mon	Colorado Springs, CO Tulsa, OK	Speaking	Personal
7	05/19/17 – 05/22/17	Fri – Mon	Tulsa, OK	Facility tour	Facility tour
8	05/25/17 – 05/29/17	Thu – Mon	Tulsa, OK	Site tour	Site tour
9	06/22/17 – 06/26/17	Thu – Mon	Tulsa, OK	Facility tour/ meeting	Facility tour/ meeting
10	07/26/17 – 07/30/17	Wed – Sun	Tulsa, OK Oklahoma City, OK Guymon, OK	Meetings	Meetings
11	08/02/17 – 08/10/17	Wed – Thu	Indianapolis, IN Denver, CO Tulsa, OK Des Moines, IA Grand Forks, ND	Meetings	Personal
12	08/30/17 – 09/05/17	Wed – Tue	Corpus Christi, TX Tulsa, OK	Meetings	Personal
13	09/14/17 – 09/19/17	Thu – Tue	Houston, TX Tulsa, OK New York, NY	Tour/meeting/ media event	Personal
14	10/04/17 – 10/09/17	Wed – Mon	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK Lexington, KY	Speaking/ meeting	Personal
15	10/27/17 – 10/30/17	Fri – Mon	New Orleans, LA Tulsa, OK	Speaking	Personal
16	11/30/17 – 12/04/17	Thu – Mon	Louisville, KY Des Moines, IA Tulsa, OK	Speaking/ meetings	Personal

Source: OIG analysis of travel data downloaded from the EPA's Compass Data Warehouse.

* Travel period for the former Administrator's advance staff and PSD varied.

The travel period represents all dates covered by travel vouchers, including weekends and holidays. As shown in Table 3, the former Administrator frequently departed on Wednesday, Thursday or Friday from Washington, D.C., to Tulsa and

other locations, and returned to Washington on Monday or Tuesday of the following week. While the former Administrator was always accompanied by PSD agents, he was often also accompanied by staff from his office, some of whom also stayed over the weekend in Tulsa at their own expense.

For six of the 16 Tulsa trips, the former Administrator cited being on official business. The six trips (identified in Table 3: rows 4, 5 and 7–10) to Tulsa/Oklahoma City from Washington included such purposes as meetings and/or facility tours. These trips usually showed one official meeting and/or facility tour per trip.

The remaining 10 trips (identified in Table 3: rows 1–3, 6 and 11–16) included weekend stops at the former Administrator’s residence in Tulsa. The travel documents showed no official business associated with most of these weekends. In fact, vouchers for most of these trips indicated that the former Administrator paid his own airfare to Tulsa for the weekend.

We identified no specific criteria that would limit the Administrator’s travel to, or stops in, Tulsa for the weekend or otherwise. However, the FTR requires travelers to take the direct or usually traveled route, unless the agency approves otherwise. If an indirect route is used for personal convenience, government reimbursement is limited up to the cost of travel by a direct route. EPA policy under RMDS 2550B, Section IV, *Responsibilities*, also requires justification and approval to use an indirect route.

The FTR and EPA travel policy require a traveler to take the direct or usually traveled route.

The frequency and duration of the former Administrator’s and his staff’s trips to, and stops in, Tulsa can:

- Give the appearance that trips were being planned for the benefit of the former Administrator so that he could travel to his personal residence.
- Call into question the necessity of the trips.
- Result in additional travel time for the former Administrator’s PSD agents and increased costs.

This topic is further discussed in Chapter 4’s *Missing Detailed Support for Trips with Stops in Tulsa* section.

Actions Taken

No actions were taken.

Agency Comments and OIG Evaluation

The agency provided justification for the six canceled trips. We added the trip cancellation rationales to Appendix B of the report based on the information provided.

In addition, the agency's response to Chapter 2 included comments regarding the excessive costs discussed in Chapter 3 and the findings in Chapter 4 relating to the former Administrator's stops in Tulsa and the use of non-contract carriers. We provided general responses to the agency's Chapter 2 comments within Appendix D; more specific comments are provided with Chapters 3 and 4.

The full agency response and our comments on Chapter 2 are in Appendix D, OIG Responses 2 to 4.

Chapter 3

Improper Approvals for First/Business-Class Travel Resulted in Excessive Airfare

The former Administrator and his accompanying PSD agents incurred more travel costs than necessary or appropriate by flying first/business class. Agency officials requested and granted first/business-class exceptions to the former Administrator and the PSD agents who accompanied him based on the security exception allowed by the FTR. However, the exceptions were improperly granted. First, they lacked sufficient justification to support endangerment of the former Administrator's life—the agency's asserted basis for the security exception. Second, the exception for the former Administrator was approved by an agency official who initially did not have the appropriate approval authority. In Chapter 4 of this report, the section *First/Business-Class Exceptions Granted Without Sufficient Justification to Support Security Concern* discusses this issue in detail.

As shown in Table 4, we estimated excess airfare costs of \$123,942 associated with first/business-class trips taken by the former Administrator from March 2017 to December 2017. This amount consists of \$61,971 each for the former Administrator and the PSD agents accompanying him. The estimate for the former Administrator represents the difference between the first/business-class airfare claimed and the “city-pair” fare⁵ for coach class. According to the agency, due to security protocols, a PSD agent was required to sit near the former Administrator. Hence the agent would have incurred similar if not the same first/business-class airfare costs as the former Administrator. Therefore, we used the same estimate for the PSD agent accompanying the former Administrator. We believe that the inclusion of the PSD agents' travel costs was appropriate, as the PSD agents' class of travel was driven by the Administrator's class of travel.

Table 4: Excessive costs resulting from insufficient justification for first/business-class travel

Travel period	Destination	Airfare claimed*	City-pair fare**	Difference	Note
05/04/17 – 05/08/17	Tulsa, OK	\$848	\$585	\$263	
05/11/17 – 05/15/17	Colorado Springs, CO Tulsa, OK	2,691	669	2,022	
05/16/17 – 05/17/17	New York, NY	1,316	210	1,106	
05/19/17 – 05/22/17	Tulsa, OK	1,927	570	1,357	
05/25/17 – 05/29/17	Tulsa, OK	2,628	1,214	1,414	
06/05/17 – 06/06/17	New York, NY	1,588	210	1,378	
06/07/17 – 06/11/17	Cincinnati, OH Rome, Italy Bologna, Italy	6,688	925	5,763	

⁵ The City Pair Program was developed to provide discounted air passenger transportation services to federal government travelers. The program currently covers over 12,000 markets. “City-pair” fares are considerably lower than comparable commercial fares, saving the federal government billions of dollars annually.

Travel period	Destination	Airfare claimed*	City-pair fare**	Difference	Note
06/22/17 – 06/26/17	Tulsa, OK	2,604	570	2,034	
07/06/17 – 07/06/17	Birmingham/Wilsonville, AL	2,438	920	1,518	
07/07/17 – 07/07/17	Cochran, GA	1,847	486	1,361	
07/17/17 – 07/20/17	Salt Lake City, UT Minneapolis, MN Little Rock, AK	4,627	1,349	3,278	
07/24/17 – 07/24/17	Charleston, SC	1,154	392	762	
07/26/17 – 07/30/17	Tulsa, OK Oklahoma City, OK Guymon, OK	2,604	570	2,034	
08/02/17 – 08/10/17	Indianapolis, IN Denver, CO Tulsa, OK Des Moines, IA Grand Forks, ND	4,979	3,717	1,262	1
08/30/17 – 09/05/17	Corpus Christi, TX Tulsa, OK	3,703	622	3,081	2
09/14/17 – 09/19/17	Houston, TX Tulsa, OK New York, NY	3,330	953	2,377	
09/27/17 – 09/28/17	New York, NY	1,791	210	1,581	
10/04/17 – 10/09/17	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK Lexington, KY	4,813	1,876	2,937	
10/11/17 – 10/12/17	Jackson, MS	2,978	1,876	2,937	
10/19/17 – 10/20/17	Houston, TX Omaha, NE	3,610	1,319	2,291	
10/23/17 – 10/23/17	Nashville, TN	2,744	424	2,320	
10/27/17 – 10/30/17	New Orleans, LA Tulsa, OK	2,076	509	1,567	
11/08/17 – 11/08/17	Chicago, IL	1,172	222	950	
11/09/17 – 11/09/17	Kiawah Island, SC	2,866	310	2,566	
11/27/17 – 11/27/17	Orlando, FL	2,056	338	1,718	
11/30/17 – 12/04/17	Louisville, KY Des Moines, IA Tulsa, OK	2,016	823	1,193	
12/09/17 – 12/13/17	Rabat, Morocco	16,164	4,533	11,631	3
Totals		\$87,255	\$24,063	\$61,971	
Total unnecessary airfare for former Administrator				\$61,971	
Related costs for accompanying PSD agents				\$61,971	
Total estimate of unnecessary costs				\$123,942	

Source: OIG-generated table.

* Represents the amount claimed by former Administrator Pruitt for first/business-class travel.

** Federal government contract unrestricted coach fares (i.e., fares listed under GSA's Airline City Pairs) were used to calculate coach-class travel, except for those items discussed in Notes 1 through 3. For cities with multiple airports, we used the city-pair fare for the actual airports used by the former Administrator.

Note 1: This trip included two airline receipts for the travel period—one for flights taken August 2–4 and one for flights taken August 7–9. The

flights taken August 2–4 included travel from Washington, D.C., to Indianapolis, Indiana; then from Evansville, Indiana, to Denver, Colorado. As there is no city-pair fare from Evansville to Denver, for comparison, we used the coach-class fare purchased by a staff member who accompanied the former Administrator on all segments of the trip.

The August 7–9 flights included three different trips: Tulsa, Oklahoma, to Des Moines, Iowa; Des Moines to Fargo, North Dakota; and Grand Forks, North Dakota, to Dallas, Texas. We found no city-pair fares for the trips to Des Moines and Dallas. Unlike the prior travel period, we could not identify other staff who accompanied the former Administrator on all segments of the trip. Therefore, we were unable to identify a reasonable basis for estimating the coach-class fare. As such, we allowed the entire airfare claimed even though the amount included first-class travel for three of the six segments.

Note 2: This trip included flights from Tulsa, Oklahoma, to Corpus Christi, Texas; then return to Tulsa and from Tulsa to Washington, D.C., during the period August 30 through September 5. The stays in Tulsa before and after the official travel were for personal reasons.

There was no city-pair fare between Tulsa and Corpus Christi. As the Administrator's official duty station was Washington, D.C., consistent with the FTR and EPA travel policy we used city-pair fares between Corpus Christi and Washington as the basis for our calculation, as that would be the most direct and uninterrupted route for the official travel.

Note 3: This trip included travel from Washington D.C., to Rabat and Marrakesh, Morocco, and return. As there was no city-pair fare from Marrakesh to Washington, we used the coach-class fare of other staff who accompanied the former Administrator as the basis for our calculation.

As discussed in Chapter 1 of this report, in the *Scope and Methodology* section, we reviewed all travel vouchers and receipts for the former Administrator, which allowed us to better estimate the excess costs. However, for other travelers accompanying him, including the PSD, we selected a sample of vouchers and receipts for review. Therefore, we did not obtain or review the information needed to estimate the difference for all travelers as we did for the former Administrator.

Actions Taken

On April 22, 2019, the agency provided a schedule of its estimate of the excess costs for the PSD agents accompanying the former Administrator in first and business class. The schedule was provided to support its statement in the February 15, 2019, draft report response that PSD agents did not always travel with the former Administrator. The schedule showed there were no PSD agents

accompanying the former Administrator in first and business class on eight trips. The schedule also showed revised estimated excess airfare of \$35,980, down from the \$61,971 the OIG estimated for the PSD agents.

We performed a limited review of the April 22, 2019, PSD cost schedule and noted several discrepancies between the schedule and the documents in the EPA's official travel system, Concur. For example, for four of the trips, the agency's PSD cost schedule shows "No PSD/Staff Premium Travel Costs" while travel documents in Concur show PSD agents on the same first-class flights as the former Administrator. As a result of the noted discrepancies, we cannot rely on the PSD cost schedule provided by the agency. Our estimated excess airfare amount of \$61,971 for the PSD agents for first/business-class travel remains unchanged.

Moreover, the agency's conclusion that the former Administrator was not accompanied by PSD agents in first and business class for several trips undermines the agency's stated justification that the former Administrator's first/business-class flights were necessary for security reasons. The cornerstone of the agency's stated justification for PSD agents traveling first class was that the PSD agents could not sit in close proximity to properly protect the former Administrator when flying coach class. The agency's February 15, 2019, conclusion raises doubt as to whether it was truly necessary for the PSD agents to fly in close proximity to the former Administrator and thus whether any first/business-class airfares were justified for the former Administrator or PSD agents.

Recommendations

We recommend that the Chief Financial Officer:

1. Evaluate and determine whether the increased airfare costs estimated at \$123,942 related to former Administrator Pruitt's use of first/business-class travel without sufficient justification and proper approval, for the period March 1, 2017, through December 31, 2017, should be recovered and, if so, from which responsible official or officials, and direct recovery of the funds.
2. For the period January 1, 2018, through his resignation in July 2018, evaluate and determine whether any costs related to former Administrator Pruitt's use of first/business-class travel without sufficient justification and proper approval should be recovered and, if so, from which responsible official or officials, and direct recovery of the funds.

Agency Comments and OIG Evaluation

The agency asserted that it has completed an analysis showing that all costs incurred between March 1, 2017, and December 31, 2017, were *valid*; and all costs

incurred between January 1, 2018, and July 2018 had *sufficient justification and proper approval*.

On March 5, 2019, the Chief Financial Officer also redelegated the approval authority for the Administrator's first/business-class travel to the Controller (see Appendix F). On March 26, 2019, the agency provided its review of the 2018 costs, along with its standard operating procedures for the review. On March 28, 2019, the Controller retroactively approved other than coach-class accommodations associated with the Administrator's trips taken in 2017 and 2018 (see Appendix G).

We agree that the subsequent redelegation, combined with the retroactive approval, resolved the issue of a lack of delegated authority and the trip-by-trip approval. However, we disagree with the agency's determination on the 2017 and 2018 costs, as the Controller's retroactive approval still lacks the support and justification for the asserted security concerns, as documented in Chapter 4 of this report and our audit of the PSD noted in the *Prior Audit Reports* section (Report No. [18-P-0239](#)).

The agency also stated that the former Administrator issued a memorandum requiring additional approval for any trip made by agency personnel on his behalf with expenditures over \$5,000. Per his directive, for these trips, final approval is required from two of three individuals: Deputy Administrator, Chief Financial Officer and/or Chief of Staff. According to the agency, this review continued after former Administrator Pruitt's departure.

Although this new approval requirement may help to strengthen the overall travel control, it does not address the OIG's Recommendations 1 and 2: to review costs from March 2017 to July 2018 to determine whether sufficient justification and proper approval exist and if the costs need to be recovered.

We consider Recommendations 1 and 2 to be unresolved with resolution efforts in progress.

The full agency response and our comments to Chapter 3 are in Appendix D, OIG Responses 5, 6, 7, 13 and 14.

Chapter 4

Actions Needed to Strengthen Internal Controls over Travel

The EPA's travel policy is sufficiently designed to prevent fraud, waste and abuse, and is consistent with the FTR. However, we found that the policy did not initially outline who had the authority to approve the Administrator's travel authorizations and vouchers. We also found that not all applicable provisions of the FTR and/or the EPA travel policy were followed for former Administrator Pruitt's travel. Although our focus was on the former Administrator's travel, we also noted issues related to the former Administrator's staff and PSD agents traveling with or in advance of him. We noted the following:

- First/business-class exceptions were awarded for the former Administrator and PSD agents without sufficient justification for the security concern used to support the exception, and the exception for the former Administrator was approved by an individual who did not initially have the authority to grant such approval.
- Blanket approval for first/business-class travel did not comply with the FTR trip-by-trip approval requirement.
- Justification for use of non-contract carriers was not always documented.
- Compliance with the FTR for the selection of first/business-class carrier and flights was not documented.
- Lodging costs claimed in excess of 150 percent of per diem were not approved and/or adequately justified in accordance with EPA travel policy.
- Travel documents for trips with stops in Tulsa did not contain sufficient details to verify there were no additional costs to the government.
- International trip reports were inaccurate and incomplete.
- The PSD's and other staff's use of business-class travel for international trips was approved without the required analysis and did not follow the agency's exception approval process.

Based on the issues identified above, actions are needed to strengthen controls over the EPA's travel and prevent fraud, waste and abuse.

We found that the former Administrator's use of military/chartered flights was properly documented and approved in accordance with the FTR and EPA travel policy.

No Formal Delegation for Approval of Administrator's Travel Documents

The EPA's travel policy defines the delegation authority for approving exceptions and specific sensitive items—such as the use of premium-class accommodation, lodging in excess of per diem, and the use of military and chartered aircraft. The delegations to approve the travel exceptions and specific sensitive items are referenced in the EPA travel policy RMDS 2550B, Section III, *Delegations of Authority*, but the delegations do not clearly specify who is responsible for the approval of the Administrator's travel authorizations and vouchers. Additionally, the *Executive Approval Framework*, which clarifies the appropriate level of approval for EPA executives, did not cover the Administrator.

The *Executive Approval Framework* did not include approval for the Administrator.

The EPA's RMDS 2550B, Section V, *Authorization for Official Travel*, states that "all travel requires approval from proper travel-authorizing officials or designees prior to employees conducting official travel or incurring any costs associated with travel." On April 24, 2014, the EPA issued a memorandum to Senior Resource Officials, *Implementing Internal Controls Related to Time and Attendance, Travel, Payroll, and Parking and Transit Subsidies*, which included the *Executive Approval Framework* for executive travel. Except for the Administrator, the framework clarifies the appropriate level of approval for EPA executives where the travel cannot be approved by an individual in their chain of command. Approval of the Administrator's travel should follow the same system as the other executives in the agency and be clearly stated in the framework.

Conclusion

While the EPA has established delegations of approval for specific exceptions allowed for under its travel policy, it initially did not provide a clear delegation for approval of the Administrator's travel authorizations and vouchers. The lack of a clearly authorized delegate and backup at an appropriate level could result in inappropriate approval and lead to fraud, waste and abuse with the Administrator's travel.

Actions Taken

In the discussion documents issued to the agency on May 29, 2018, we recommended that the Chief Financial Officer update the *Executive Approval Framework* or other EPA policy to include a formal authorized delegate and backup for approval of Administrator-level travel. On June 28, 2018, the OCFO updated the *Executive Approval Framework* to designate approvers for the Administrator's travel. We verified on July 13, 2018, that the updated *Executive Approval Framework* has been posted on the EPA's intranet. Therefore, no further recommendation on this matter is needed.

First/Business-Class Exceptions Granted Without Sufficient Justification to Support Security Concern

As discussed in Chapter 3 of this report, agency officials requested and granted first/business-class exceptions to the former Administrator and the PSD agents who accompanied him based on the security exception allowed by the FTR. However, the exceptions were improperly granted because:

- The agency did not have documentation to support the asserted security concerns.
- The exception for the former Administrator was approved by an agency official who at the time did not have the appropriate approval authority.
- The exceptions were not granted on a trip-by-trip basis.

On June 1, 2017, the Deputy Chief of Staff, as the Senior Resource Officer, sent a memorandum to the OCFO requesting a first-class exception for former Administrator Pruitt due to security concerns. The memorandum stated that the determination was made based on the prevailing security assessments provided by the PSD and the threat statistics obtained from the EPA OIG. On June 2, 2017, the acting Controller⁶ in the OCFO approved the exception request with a retroactive effective date of May 15, 2017. The approval memorandum stated that, based on a review of the “related documentation” received, it was determined that the request complied with criteria in the EPA’s travel policy. On June 5, 2017, the acting Controller approved the same exception for the PSD agents who accompanied the former Administrator on official travel.

Exceptions were granted for security concerns based only on alleged security assessments by the agency.

Blanket Authorization

It is unclear from the approval memorandums whether the exceptions granted to the former Administrator and PSD agents who accompanied him were blanket authorizations or only for a particular trip. The memorandums did not include an expiration date or mention a specific trip. Therefore, the memorandums appear to provide a blanket authorization. The agency allowed the former Administrator and PSD agents traveling with him to use the memorandums as a blanket authorization, as the same approval was used as the basis for justifying first/business-class travel for all trips taken after May 15, 2017—the effective date of the approval. There was no evidence of a trip-by-trip analysis or separate approval by the Controller for each trip.

Blanket approval for the use of other than coach-class accommodations is prohibited under Note 2 to FTR §301-10.123 and is contrary to EPA travel policy.

⁶ The acting Controller became the Controller on July 12, 2017.

OIG Analysis of “Related Documentation”

We requested the “related documentation” mentioned in the approval memorandums from the agency. On October 18, 2017, we received a response from the acting Deputy Chief of Staff saying that all he had was the PSD “threat assessment,” and that the PSD had used this document from very early in the Pruitt administration. Our review showed that the referenced “threat assessment” document was not a threat assessment. Rather, it was a memorandum, dated August 16, 2017, from the OIG’s Office of Investigations. The memorandum was provided to the PSD in response to a request for statistics regarding threat investigations that could be used as part of its own “threat assessment.”

The August 16, 2017, memorandum had the subject *Summary of Pending and Recent Threat Investigations*. The memorandum included sections that addressed:

- Summary and threats statistics.
- Threats directed against former Administrator Pruitt and/or his family.
- Threats directed against former Administrator Gina McCarthy.
- Threats directed against other EPA employees.

The section pertaining to threats against former Administrator Pruitt included threatening messages received through mail, phone calls and social media. These cases did not involve physical threats to the former Administrator or his family, and the memorandum did not include conclusions or assessments about the threats to the former Administrator or recommend security action relating to the former Administrator or his use of first/business-class travel.

Moreover, the memorandum provided by the OIG did not exist at the time the first/business-class exception was discussed, requested or approved. Indeed, the acting Controller in the OCFO approved the exception request on June 2, 2017, more than 2 months **before** the OIG’s August 16, 2017, memorandum. No additional statistics were ever provided by the OIG.

The OIG threat statistics did not exist at the time the first/business-class exception was approved.

First-Class Travel Prior to Approval of Exceptions

The former Administrator’s initial first-class flight was in early May 2017, before his first/business-class exception became effective on May 15, 2017. For his first trip, beginning on May 4, 2017, a coach-class ticket was purchased and later upgraded to first class, resulting in an additional \$389 cost. No justification or approval was provided for the upgrade on the former Administrator’s travel authorization or voucher. For his second trip, beginning on May 11, 2017, and ending on May 15, 2017, a first-class roundtrip ticket was booked and included only the justification

First/business-class travel prior to approval of exception was based on an unsigned PSD memorandum.

provided by the PSD. The justification—an unsigned memorandum dated May 1, 2017, from the PSD acting Special Agent in Charge to the former Administrator’s Travel Coordinator—requested that the former Administrator be strategically seated in business or first class for official travel. The request stated that the PSD previously had observed a “lashing out” from passengers while the former Administrator was seated in coach class and the PSD was not easily accessible to the former Administrator due to full flights. However, neither the PSD nor the former Administrator’s Travel Coordinator had the authority to approve first-class travel.

Federal Requirements and EPA Policy for Granting Exceptions

FTR §301-10.122 requires coach-class accommodations to be used for domestic and international official business travel. FTR §301-10.123 provides exceptional security circumstances that would allow the use of other than coach-class accommodation if the agency specifically authorizes/approves such use. These circumstances include, but are not limited to, when:

- Use of coach-class accommodations would endanger the traveler’s life or government property.
- The traveler is an agent on protective detail accompanying an individual authorized to use other than coach-class accommodations.
- The traveler is a courier or control officer accompanying controlled pouches or packages.

The circumstance the agency asserted is that the use of coach-class accommodation would endanger the former Administrator’s life. The FTR’s term “other than coach-class” refers to first or business class.

The EPA’s RMDS 2550B, Section V, *Travel Accommodations*, requires that EPA employees use coach class for official travel unless delegated officials grant an exception for a higher class. A request for an exception to use other than coach class (first or business) requires a memorandum that supports the approval from an employee’s office director or equivalent to the Chief Financial Officer or designee. When the exception for the former Administrator’s first/business-class travel was granted, only the Chief Financial Officer and Deputy Chief Financial Officer were delegated the authority to approve the use of other than coach class (first or business) for the Administrator under EPA Delegation 1-17A, *Domestic Travel*, and 1-17B, *International (Foreign and Invitational-Foreign) Travel*. This authority was not re-delegated⁷. Nonetheless, the then acting Controller approved the exception for the former Administrator’s first/business-class travel on June 2, 2017, without delegated authority to properly do so.

⁷ At the time, the then acting Controller had been delegated authority to approve such first/business-class exceptions, but *only* for the position of office director and employees below.

Conclusion

The former Administrator relied on the exception approved by the then acting Controller for all first/business-class flights after May 15, 2017. Due to agency security protocol, the former Administrator's accompanying PSD agents also flew first and business class with him. However, the acting Controller had not been delegated the authority to approve the Administrator's use of first/business-class travel at the time she granted the exception, thereby making the exception invalid.

At no time has the agency ever adequately justified its approval of the exception based on security concerns. The agency could not provide documentation to support that the former Administrator's life was endangered when flying coach class.

Furthermore, the agency used the exception as a blanket approval for the former Administrator and PSD to fly first and business class, which is prohibited under the FTR. As a result, the former Administrator's first/business-class travel violated the FTR and EPA travel policy.

Consequently, the former Administrator and his accompanying PSD agents incurred more travel costs than necessary or appropriate. As discussed in Chapter 3, we have estimated airfare expenses of \$123,942 paid above coach class.

Actions Taken

Since issuance of the draft report, the agency has taken actions to address the delegation of authority for approval of the first/business-class exception for the Administrator and trip-by-trip approvals. On February 11, 2019, the agency's Office of General Counsel (OGC) issued a legal opinion, included in the agency response, stating that the acting Controller did have "implicit authority" to grant the first-class exceptions (see Appendix E). The OIG disagrees with the agency's position as outlined in the *Agency Comments and OIG Evaluation* section below.

Subsequent actions were taken by the agency to redelegate authority and make after-the-fact approvals.

Notwithstanding the OGC legal opinion, on March 5, 2019, the Chief Financial Officer issued a memorandum redelegating the authority to approve other than coach-class (first-class) accommodations for all official travel to the Controller. This redelegation also included the authority for the Controller to issue after-the-fact or post-travel exceptions for agency employees under the criteria provided in the FTR and the agency travel policy (see Appendix F). On March 22, 2019, the Administrator issued a memorandum approving amendments to Delegations 17-A and 17-B, incorporating the Chief Financial Officer's new redelegation to the Controller (see Appendix H). On March 28, 2019, the Controller issued a memorandum retroactively approving all other than coach-class accommodations (first-class) for former Administrator Pruitt, the PSD and support staff that occurred during the fiscal years 2017 and 2018, due to security concerns (see Appendix G). The agency provided no justification or documentation to show that

valid security concerns existed for the travel period in question. The following is a timeline of the events:

Table 5: Actions taken to address redelegation since draft report issuance: timeline of events

Action	Date
OIG issues draft report.	11/26/18
OGC issues legal opinion on the delegation of authority issue.	02/11/19
Agency responds to draft report.	02/15/19
Chief Financial Officer issues redelegation to the Controller.	03/05/19
Current Administrator approves the amendments to Delegations 1-17A and 1-17B for the redelegation of authority to the Controller.	03/22/19
Controller retroactively approves 2017 and 2018 first-class flight accommodations.	03/28/19

Source: OIG-generated table.

Recommendations

We recommend that the Chief Financial Officer:

3. Implement controls to verify the approving official has adequate authority prior to granting first/business-class exceptions.
4. Implement controls agencywide to verify that the use of other than coach-class travel is properly justified and documented prior to approval of the travel authorization.

Agency Comments and OIG Evaluation

The agency initially disagreed with Recommendations 3 and 4 and stated that adequate controls were in place for granting first/business-class exceptions and verifying justification and support for the use of other than coach-class travel. The agency stated that based on an opinion from the OGC, the acting Controller was authorized to grant the first/business-class exception for the former Administrator based on “implicit authority.” The agency further stated that trip-by-trip approval for first/business-class flight accommodation is a best practice rather than required.

It should be noted that the OGC opinion was initiated internally within the agency and not at the OIG’s request. The opinion—rendered by OGC staff—contends that the acting Controller was operating pursuant to an implied delegation of authority from the acting Chief Financial Officer and, therefore, the approval of the exception for the former Administrator’s first/business-class travel was valid. The OGC’s contention is based on its understanding that the acting Chief Financial Officer did not object to the acting Controller’s role of approving first-class travel and he orally concurred with the exception determination.

The OIG disagrees with the agency's position.⁸ The agency's position contradicts the EPA's expressed, written governing tenets for delegations and redelegations of authority, namely that agency officials must not exceed the authority granted to them and that all delegations and redelegations are to be made in writing.⁹

The agency's position would allow restrictions in explicit written delegations to be nullified by the mere claim by any agency official that he/she is unaware of the limits of his/her authority. The OIG believes that such a position is entirely contrary to sound, principled management practices incumbent on all agencies. Furthermore, contrary to the OGC's opinion, the agency's March 28, 2019, memorandum acknowledges that the acting Controller did **not** have proper authority to approve other than coach-class accommodation.

As discussed above in the *Actions Taken* section, the agency has taken numerous actions to address the delegation and trip-by-trip issue. The OIG acknowledges these actions and accepts the Controller's new authority for trip-by-trip and retroactive approval. However, despite these agency authorities, we disagree with the actions taken on the basis that the agency has not provided sufficient justification to support that valid security concerns existed for the periods in question. We consider Recommendation 3 completed and Recommendation 4 to be unresolved with resolution efforts in progress.

The OIG accepts new approval authority but disagrees with retroactive approval because the required security justification was absent.

The agency's full response and our comments are in Appendix D, OIG Responses 8, 9, 15 and 16.

Justification for Use of Non-Contract Air Carriers Not Always Documented

The former Administrator, as well as his PSD agents and other staff, used non-contract carriers without proper justification. In March and April 2017, prior to the first/business-class exception, the former Administrator flew coach class but did not always use the city-pair contract carrier. PSD agents and other staff also did not always use contract carriers for their trips associated with the former Administrator's travel. These PSD agents and other staff may or may not

The use of non-contract carriers by the former Administrator, his staff and PSD agents did not always have documented justifications.

⁸ The lone case cited in support of the OGC opinion, *Parrish v. Shinseki*, 24 Vet. App. 391 (2010), addressed a different factual scenario and cannot be fairly read to support the OGC's proposition that "if the supervisor is aware that an authority is being carried out by a subordinate and the supervisor does not object, the actions of that subordinate are valid pursuant to an 'implied delegation.'" Further, the *Parrish* decision was issued by the U.S. Court of Appeals for Veterans Claims, a court that provides judicial review of administrative decisions by the Board of Veterans' Appeals, an entity within the U.S. Department of Veterans Affairs, and has no binding authority on the EPA.

⁹ EPA 1200 Delegation Manual, Introduction, Section 2(5)-(6).

have flown on the same flights as the former Administrator when they used the non-contract carriers.

EPA travel policy in RMDS 2550B, Section V, *Use of the City Pair Program*, states that the EPA is a mandatory user of the GSA's city-pair contract. Employees on official business must use the contract carrier when one is available unless a specific FTR exception (§301-10.107) applies. The FTR exceptions include:

- (a) "Space on a scheduled contract flight is not available in time to accomplish the purpose of your travel, or use of contract service would require you to incur unnecessary overnight lodging costs which would increase the total cost of the trip;
- (b) "The contract flight schedule is inconsistent with explicit policies of your Federal department or agency with regard to scheduling travel during normal working hours;
- (c) "A noncontract carrier offers a lower fare to the general public that, if used, will result in a lower total trip cost to the Government (the combined costs of transportation, lodging, meals, and related expenses considered)."

Before purchasing the non-contract fare, FTR §301-10.108 requires the traveler to meet one of the above FTR §301-10.107 exceptions and the traveler's agency to determine that the proposed non-contract transportation is practical and cost-effective for the government. FTR §301-10.108 also requires the traveler to show approval in the travel authorization to use a non-contract fare.

When non-contract carriers/flights were used, the former Administrator, as well as his staff and PSD agents, used the Concur selection "contract fare used or no contract fare exists for city-pair market" as the justification. Some of these trips had narrative justifications in addition to the Concur selection, but many did not. Furthermore, some of the narrative justifications used were invalid, as they did not provide information to explain how the FTR exceptions were met. Examples of these invalid narrative justifications include "booked by the traveler" or "BCD booked travel."¹⁰

OIG Analysis of Use of Non-Contract Carriers

Our analysis showed that in most instances the Concur selection "contract fare used or no contract fare exists for city-pair market" was incorrect. Our search showed that there were city-pair fares for the routes traveled but the travelers selected the non-contract carriers for unknown reasons. The agency's explanation was that such fares were booked by the contractor, BCD Travel.

¹⁰ BCD Travel operates the EPA's Travel Management Center.

According to the agency, BCD, as a contractor for the EPA’s Travel Management Center, is required to follow the FTR per its Memorandum of Understanding¹¹ with the EPA. However, there is no requirement in the Memorandum of Understanding for BCD to document compliance with the FTR in Concur. In fact, BCD does not document/justify the selection of non-contract carriers. Without justification, it is not clear what FTR exception was met or whether the agency made a determination on cost-effectiveness. The EPA’s use of BCD does not relieve the traveler’s and agency’s responsibility for complying with the FTR and EPA travel policy.

Conclusion

The use of the Concur selection “contract fare used or no contract fare exists for city-pair market” implies that when a non-contract carrier is used there is no contract fare for the route. However, our analysis included many examples that showed otherwise. Without justification, the travelers have not demonstrated that they met the FTR exceptions for using other than city-pair contract fares. Failure to use city-pair contract carriers without meeting the FTR exceptions is a violation of the FTR.

Recommendation

We recommend that the Chief Financial Officer:

5. Implement controls to verify contract fares are used unless the non-contract fares are properly justified and documented.

Agency Comments and OIG Evaluation

The agency disagreed with Recommendation 5. The agency believes its travel policy and the Concur selection menu, along with justification and the work of its contractor—BCD—are adequate for verifying that contract fares are properly used and justified.

We disagree with the agency’s comments. As stated in the report, our analysis showed that in most instances the statement in the selection menu was not true and additional narrative justification was not always provided. Further, the EPA’s use of BCD does not relieve either the traveler’s or the agency’s responsibility for complying with the FTR and EPA policy.

We consider Recommendation 5 unresolved with resolution efforts in progress.

The agency’s full response and our comments are in Appendix D, OIG Responses 10 and 17.

¹¹ Review of the Memorandum of Understanding and BCD’s activities are outside the scope of our audit.

No Documentation to Verify Whether First/Business-Class Carriers and Flights Selected Were Compliant with the FTR

As shown in Chapter 2 of this report, Table 2, the former Administrator's flight segments for May to December 2017, consisted of 76.8 percent first class and 11.6 percent each for business and economy/premium economy. The former Administrator and his accompanying PSD agent¹² traveled first/business class without documentation to verify that the fares selected were the lowest first/business-class cost or the "most advantageous" to the government. The agency's travel policy does not require documentation to support first/business-class carriers or flight selection. Without a requirement for a traveler to affirmatively indicate whether the lowest fare was selected, the agency could not determine whether the selection of the first/business-class fares were compliant with the FTR.

OIG Analysis of First/Business-Class Flights and Carriers

As discussed in the *First/Business-Class Exceptions Granted Without Sufficient Justification to Support Security Concern* section above, the former Administrator was granted an exception to travel first/business class based on security concerns. The agency used the exception as a blanket approval for the former Administrator and the PSD agents accompanying him to fly first/business class.

However, there was no documentation to verify that the air carriers and flights selected for the former Administrator's first/business-class travel were the lowest first/business-class cost or the most advantageous to the government, as required under FTR §301-10.112. As mandated in FTR §301-10.106, federal employees are required to use contract fares from the GSA's City Pair Program unless one of the exceptions exists. However, since city-pair does not have first-class or business-class fares, FTR §301-10.112 requires travelers to use the lowest cost for the same service unless the use of higher-cost service is more advantageous to the government.¹³ Therefore, the former Administrator needed to select the lowest-cost first/business-class fare or, if a higher fare was chosen, demonstrate that the selected carriers and flights were the most advantageous to the government within that class.

The EPA's travel policy does not specify what documentation is needed to support air carrier and airfare selection when there are no contract rates in city-pair. Agency officials said this was the first time an EPA official was approved for first/business-class travel; the agency had no experience dealing with this class of travel.

¹² According to the agency, due to security protocols, a PSD agent is required to sit near the former Administrator in first/business class; therefore, this issue also applies to the PSD agents accompanying the former Administrator.

¹³ Similarly, FTR §301-10.123 states that travelers must use the lowest other than coach-class accommodation when the agency authorizes other than coach-class accommodation.

Conclusion

The OIG could not determine whether the carriers and/or flights selected were the lowest first/business-class fares available because the government does not have first/business-class contract fares. The agency's travel policy does not require the former Administrator to show whether the flights selected were the lowest first/business-class cost or the "most advantageous" to the government. Also, the agency's travel policy does not require the former Administrator to indicate whether the lowest first/business-class fare was selected. Without a requirement for a traveler to affirmatively indicate whether the lowest first/business-class fare is selected, the agency cannot determine whether the first/business-class fare selection complies with the FTR.

Unnecessary costs could be incurred if the agency has no controls in place to verify that when a higher-cost fare is selected a traveler provides sufficient justification that the fare selection is the most advantageous for the government. Personal preference for a certain airline could result in the use of carriers/flights/fares that are not necessarily the lowest fare or the most advantageous for the government.

Recommendations

We recommend that the Chief Financial Officer:

6. Clarify EPA policy in Resource Management Directive System 2550B on the requirements for justifying and documenting carrier/flight/airfare selection when there are no contract fares.

We recommend that the Chief of Staff:

7. Implement controls within the Office of the Administrator to include adequate justification to support the use of first/business-class travel and for carrier/flight/airfare selection when there are no contract fares.

Agency Comments and OIG Evaluation

The agency disagreed with Recommendations 6 and 7. For Recommendation 6, the agency believes that the RMDS discusses the agency requirements. In addition, the agency believes that the dropdown menu in Concur, along with justification and the booking of flights by BCD, is sufficient justification/documentation.

For Recommendation 7, the agency believes that sufficient controls are in place. The agency stated that the former Administrator issued a memorandum requiring additional approval for any trip made by agency personnel on his behalf with trip expenditures over \$5,000. For these trips, final approval is required from two of

three individuals: Deputy Administrator, Chief Financial Officer or Chief of Staff. This has continued after former Administrator Pruitt's departure. The agency also stated that no separate or additional controls are required for the OA.

We disagree with the agency's comments for Recommendation 6. The referenced RMDS section only states that EPA employees must use a contract carrier when one is available unless a specific FTR §301-10.107 exception applies. It does not address how the exception is to be documented and approved. Also, the use of BCD does not relieve the traveler's and agency's responsibility for complying with the FTR and EPA policy.

We also disagree with the agency's comment for Recommendation 7 that sufficient controls are in place. Between May and December 2017, the former Administrator traveled mostly first class. The travel authorizations and vouchers did not provide any cost or schedule information to justify the carrier and airfare selection.

The agency's new approval requirement for trip expenditures over \$5,000 does not resolve Recommendation 7. The agency continues to rely on BCD for FTR compliance and does not believe that additional controls are needed to verify that adequate justification is provided to support first/business-class travel and carrier/flight/airfare selection. Therefore, the senior management review of trips with expenditures over \$5,000 is unlikely to verify such documentation absent the additional controls specified in our Recommendation 7.

We consider Recommendations 6 and 7 unresolved with resolution efforts in progress.

The agency's full response and our comments are in Appendix D, OIG Responses 18 and 19.

Unjustified and Improper Approvals for Lodging Costs Above 150 Percent of Per Diem

The former Administrator and some associated staff and PSD agents incurred lodging expenses above 150 percent of per diem without justifications and approvals received after-the-fact. We also identified instances where PSD agents did not receive proper second-line supervisor approval.

Under FTR §301-11.30(a), a government traveler may be reimbursed for actual lodging expenses not to exceed 300 percent of per diem. The FTR §301-11.30(b) further states that approval of actual expenses for lodging is "usually in advance of travel and at the discretion of [the traveler's] agency."

The handling of above per diem lodging is hindered by inconsistent agency direction. In the agency's April 24, 2014, memorandum *Implementing Internal Controls Related to Time and Attendance, Travel, Payroll, and Parking and*

Transit Subsidies, the issue of above per diem lodging often not being approved prior to travel or appropriately documented was identified as an area of concern. As a corrective action, the memorandum states that approval for above per diem lodging be made “prior” (emphasis in agency policy) to travel and that proper justification for above per diem expenses be provided. The memorandum stated that the OCFO would codify this new control into the EPA travel policy.

The EPA’s RMDS 2550B, Section V, *Actual Expenses*, issued in 2015, requires specific notation in the travel authorization for approval of actual expense reimbursement. If the expense exceeds 150 percent of per diem, the policy also requires second-line supervisor approval prior to occurrence of travel. In addition, EPA policy requires an amendment to the travel authorization when travel authorizing officials approve expenses after the completion of the trip.

As shown in Table 6, for 10 trips (or 29 percent of the 34 trips taken), the former Administrator’s lodging costs exceeded 150 percent of per diem. For most of the trips, the former Administrator’s lodging costs in excess of 150 percent were approved after-the-fact. Justifications for these approvals were often minimal, such as “due to high season.” A few were without any justification.

Table 6: Former Administrator’s lodging over 150 percent of per diem

	Travel date	Destination	Hotel	Per diem	150% of per diem	Lodging claimed	Justification
1	03/08/17	Houston, TX	Hilton Americas	\$135	\$203	\$284	None
2	04/19/17	Columbia, MO	Double Tree	91	137	159	None
3	05/16/17	New York, NY	The Michelangelo	267	401	450	High season – no government rate
4	06/09/17	Bologna & Rome, Italy	Savoia Hotel Regency & Baglioni Hotel Regina	359	539	629	Represents costs for one room at two hotels needed to address security considerations.
5	07/17/17	Salt Lake City, UT	The Monaco	115	173	199	Last minute changes and high season*
	07/18/17	Minneapolis, MN	Le Meridien	145	218	299	Last minute changes and high season*
	07/19/17	Little Rock, AK	Capital Hotel	94	141	195	Last minute changes and high season*
6	07/24/17	Charleston, SC	The Spectator	178	267	269	High season
7	08/02/17 – 08/03/17	Denver, CO	The Oxford	178	267	380	High season
8	09/18/17	New York, NY	Cassa	301	452	669	High season – sold out
9	09/27/17	New York, NY	The Knickerbocker	301	452	595	High season – sold out
10	10/05/17	Phoenix, AZ	Kimpton Hotel Palomar	124	186	269	High season – sold out
	10/08/17	Lexington, KY	21c Museum	109	164	199	None

Source: OIG analysis of EPA travel data, and travel authorizations and vouchers from the Concur travel system.

* Justifications for these lodging costs were provided during the audit and were not in Concur.

Although not included in Table 6, the former Administrator's staff and PSD agents also had incurred lodging expenses in excess of per diem. We did not review all vouchers for the former Administrator's associated travelers but, based on a sample reviewed, the former Administrator's staff and PSD agents also submitted justifications and received second-line supervisor approval after the fact on numerous occasions. In addition, we identified three instances where the PSD agents incurred lodging costs in excess of 150 percent of per diem without justification or second-line supervisor approval. Another PSD agent who incurred lodging in excess of 150 percent of per diem submitted a justification, but it was approved by the first-line supervisor, not the second-line supervisor as required under EPA policy.

The PSD agents traveling with the former Administrator incurred approximately the same lodging rates as the former Administrator. According to the agency, it is necessary for PSD agents to lodge in the same hotel and in close proximity in order to provide security for the former Administrator. Staff other than the PSD agents who accompanied the former Administrator may or may not have incurred the same lodging rates. On one occasion, PSD agents stayed in the same hotel and incurred lower lodging rates than the former Administrator. For example, the former Administrator and his accompanying PSD agent were each charged a rate of \$669 to stay at the Cassa in New York City on September 18, 2017—more than double the per diem rate of \$301—while on the same day another PSD agent staying at the same hotel was charged a rate of \$389.

Conclusion

The former Administrator and associated staff and PSD agents claiming lodging expenses above 150 percent of per diem did not always have the justifications and/or approvals required under EPA policy. We believe that last-minute travel plans and changes, along with a continued lack of understanding of the EPA's travel policy by staff and management, contributed to the after-the-fact approval with limited or no justifications.

Exceedance of 150 percent of per diem without sufficient justification and second-line supervisor approval violates EPA travel policy. Exceeding per diem rates without proper approval results in unnecessary costs and contributes to the potential for waste and abuse of taxpayer dollars.

Actions Taken

This issue was discussed with the agency during a meeting on April 30, 2018. The OCFO has confirmed that no written justifications and approvals had been received for the three instances in which the former Administrator's lodging costs were claimed in excess of 150 percent of per diem (identified in Table 6 above).

Recommendation

We recommend that the Chief Financial Officer:

8. Implement controls to verify appropriate approval and adequate justification for lodging over 150 percent of per diem and minimize after-the-fact approvals.

Agency Comments and OIG Evaluation

The agency agreed with the recommendation and stated that the OCFO is implementing controls in Concur for lodging over 150 percent of per diem. The agency also proposed a corrective action completion date.

Subsequent to its formal response, the agency informed us that it has updated Concur to include a flag requiring additional justification be included for any voucher with lodging exceeding 150 percent of per diem. We accept the agency's corrective action and consider Recommendation 8 completed.

The agency's full response and our comments are in Appendix D, OIG Response 20.

Missing Detailed Support for Trips with Stops in Tulsa

Travel documentation for the former Administrator's stops in Tulsa for personal reasons while on business travel elsewhere did not contain adequate cost comparisons to verify that those stops did not result in additional costs to the government, as required under the FTR and EPA travel policy. OIG analysis of travel data obtained from the EPA's Compass Data Warehouse and vouchers and receipts from the agency's Concur travel system showed that of the 34 trips the former Administrator took from March through December 2017, six were exclusively to the former Administrator's hometown of Tulsa or other locations in Oklahoma for official business, and an additional 10 trips were taken elsewhere but included self-initiated weekend stays in Tulsa where no official business was conducted. Additional details on these trips are in Chapter 2.

We identified no specific criteria that would limit the former Administrator's travel to, or stops in, Tulsa for the weekend or otherwise. However, FTR §301-10.7 requires travelers to travel to their destination "by the usually traveled route unless the agency authorizes or approves a different route as officially necessary." If an indirect route is used for personal convenience, government reimbursement is limited to the cost of travel by a direct route and the traveler is responsible for any additional cost, as required by FTR §301-10.8.

Similarly, EPA policy under RMDS 2550B, Section IV, *Responsibilities*, requires authorizing officials to verify that travel is by the direct or usually traveled route

and mandates that use of indirect routes requires justification and approval. The EPA travel policy reiterates that “employees are responsible for additional costs when indirect routes are for personal convenience.”

The trips with stops in Tulsa for personal convenience while on business travel elsewhere were not the direct or usually traveled routes. Therefore, the stops needed to be justified and the agency needed to determine and limit reimbursement to the costs of the direct routes. The justifications stated in the travel documents for the stops in Tulsa for personal reasons were generally either that the former Administrator paid his own way or that it was cost-effective for him to fly through Tulsa. However, the travel authorizations did not contain the required detail and support to verify these comments. For example, printed copies of the flights and prices for the direct routes were not uploaded to Concur or provided by the agency.

Furthermore, the agency did not consider all factors when comparing the former Administrator’s travel costs with a stop in Tulsa to the costs of the direct routes. For example, for some of the former Administrator’s trips home for the weekend, the cost comparison and/or justification was that the former Administrator paid his own way to Tulsa from his place of business.¹⁴ These comparisons did not document the airfare differences between flying back to Washington, D.C., from his original place of business versus from Tulsa. On another trip, the cost comparison was based on the prices for business class when in fact the former Administrator flew first class, but a less expensive business fare does not guarantee a less expensive first-class fare. The additional travel costs of the PSD agents and other staff who accompanied the former Administrator were also not addressed.

Conclusion

The OIG could not determine a specific cause for the lack of adequate cost comparison and supporting documents. However, the examples discussed show a general lack of understanding of cost-comparison requirements in the EPA’s travel policy by staff and management responsible for the former Administrator’s travel. Without proper cost comparisons and documentation, we were unable to determine whether additional costs were incurred for those stops in Tulsa the former Administrator made for personal convenience.

¹⁴ The OIG did not verify the former Administrator’s method of payment used in the cost comparison, i.e., cash, credit card or frequent-flyer miles.

Recommendation

We recommend that the Chief of Staff:

9. Implement controls within the Office of the Administrator to confirm that adequate cost comparisons are provided before approving travel authorizations where an alternative travel method is used (i.e., when the direct or usually taken routes are not used).

Agency Comments and OIG Evaluation

The agency disagreed with the recommendation, stating that sufficient controls were in place to verify proper justification and approval for use of other than coach-class travel.

The agency's comment is nonresponsive to the recommendation. The agency addressed the use of other than coach-class travel although our recommendation addresses the former Administrator's trips with side stops in Tulsa for personal reasons. We consider Recommendation 9 unresolved with resolution efforts in progress.

The agency's full response and our comments are in Appendix D, OIG Responses 3 and 21.

Inaccurate and Incomplete International Trip Reports

International trip reports were not submitted by all travelers, and those submitted by the PSD and other staff associated with the former Administrator's travel were inaccurate and incomplete. This situation occurred due to limited guidance on the requirements for trip reports in the EPA's travel policy and a lack of controls to verify that the reports are submitted and those submitted are accurate and complete. A lack of trip report submissions and inaccurate and incomplete reporting affect proper monitoring of international engagements. OITA and other EPA offices need trip reports to avoid unnecessary international trips and track agency commitments to international partners. Without proper monitoring, the EPA cannot determine that international trips achieved expected results, commitments made during the trips are in line with agency missions and are honored by the agency, and trips are in the best interest of the taxpayer and not duplicative of other international trips.

The EPA's RMDS 2550B, Section VII, *Administrative Requirements for International Trip Report*, states that a trip report must be completed in the Fast International Approval of Travel (FIAT) database within 15 days of the final date of travel. The policy also requires each National Program Manager and region to monitor, at least annually, the completion of international travel reports by their

travelers. However, the policy does not specify whether all travelers must individually prepare a trip report.

Based on discussions with OITA, each traveler is required to submit a report in FIAT with the standard form provided, but the amount of information in the report varies depending on the individual traveler. Some travelers provide a detailed summary as an attachment to the form; others just submit the essential information required in the form. Sometimes a team of several people on the same trip would prepare a single trip summary and each attach it to their individual trip report form in FIAT. The main purposes of the trip report are to obtain a summary of the events and track any commitments the travelers may have made on behalf of the agency. The reports also are used as the information library for OITA's desk officers to avoid duplication of efforts in future trips.

OIG Analysis of Trip Reports

The former Administrator had planned four international trips: to Mexico City, Mexico; Sydney, Australia; Rome, Italy; and Rabat, Morocco. The trip to Mexico City was canceled without travel and did not require an international trip report. The Sydney trip was canceled prior to the former Administrator's departure date, but his advance teams had deployed and arrived 2 days before the trip was canceled, thus requiring a trip report. The remaining two trips—to Rome and Rabat—were taken and also required trip reports. We obtained and reviewed hard-copy reports from OITA for only two of the three trips through December 31, 2017, that required trip reports—Sydney and Rome.

Our analysis found that for the Sydney and Rome trips, not all travelers submitted a trip report. Within the reports submitted, there were numerous errors. For example, for the Sydney trip, three employees reported that the “trip was completed successfully without incident,” which was entirely untrue. The trip was canceled shortly after the deployment of two of these employees and before the third employee even started the trip. In addition, some of the travel dates in the reports did not match the travel vouchers.

The errors in the international trip reports reflect a lack of management oversight and employee understanding of the requirements to file a report or the need for an accurate report. Although a lack of submission of international trip reports was raised in a prior OIG audit report,¹⁵ the EPA's revised travel policy did not provide clarification about the requirements. Rather, the revised policy, effective during the period of our audit, provided less information about the requirements than the prior version. According to the Controller, it was the OCFO's intent to leave the international travel requirements out of the travel policy and only reference the requirements in the attachments to the policy because the OCFO does not have control over the OITA's FIAT system.

¹⁵ *EPA Needs Better Management Controls for Approval of Employee Travel*, Report No. 15-P-0294, issued September 22, 2015.

For the Rabat trip, a narrative report was prepared by the embassy to summarize the matters discussed. The report does not include the details at the employee level required in FIAT. As a result, we are unable to verify the trip information as we did for the Rome and Sydney trips. According to the agency, this is not at all unusual. One person can draft a trip report when a group travels for the same purpose.

Conclusion

The lack of trip report submissions affects proper monitoring of international engagements. Without accurate and complete reports, the EPA cannot confirm that commitments in the international community are honored and in line with the agency's priorities. Accurate and complete reports also provide essential information to OITA and other EPA offices to avoid duplication of efforts in future trips and afford efficient use of EPA resources.

Actions Being Taken

We were informed by the agency that OITA will release a new version of the FIAT database. The updated version will be internet-based and allow users to access it from anywhere. It will send travelers automated reminders of the requirement to complete a trip report within 15 days and include other features to help travelers complete the form. Detailed information also will be available in the user guide. In addition, the system will allow the National Program Manager and regional coordinator to identify travel plans with missing trip reports. According to OITA, as of November 13, 2018, the updated version had been loaded onto the agency's server and will be rolled out to the three selected OITA administrative staff for pilot testing.

In its response, the agency proposed an estimated corrective action completion date of March 31, 2019. We followed up with the agency on the status of the corrective actions, and on April 22, 2019, were advised that the new version of FIAT was rolled out to a test group within OITA during the second quarter of fiscal year 2019. Testing identified a critical coding issue that affected the operation of FIAT. Further roll-out of the new system was halted so that changes could be implemented, and the system rested. As of May 6, 2019, OITA continued encountering technical problems and has reached out to the Office of Environmental Information for advice and assistance. Once the technical issue is resolved and re-testing within OITA offices proves successful, the agency will begin expanding the new FIAT to other National Program Managers and regions. The agency's revised estimated corrective action completion date is September 30, 2019.

According to the agency, as a stop-gap measure to improve compliance rates with filing trip reports, OITA's Office of Management and International Services has been monitoring trip reports in the Lotus Notes version of FIAT and contacting travelers who have not filed a report within 7 business days to remind them of the trip report requirement.

Recommendations

We recommend that the Assistant Administrator for International and Tribal Affairs:

10. Clarify the requirement and importance of trip reports for all international travel.
11. Implement controls to verify that international trip reports are accurate and complete.

Agency Comments and OIG Evaluation

The agency agreed with the recommendations and proposed corrective action, noting that OITA will be releasing a new version of the FIAT system that will address the OIG's concerns. We accept the agency's corrective actions and proposed completion dates. We consider Recommendations 10 and 11 resolved with corrective actions pending.

The agency's full response and our comments are in Appendix D, OIG Responses 22 and 23.

Improper Approval of Staff and PSD Use of Business-Class Travel for International Trips

The use of business-class travel by the former Administrator's PSD agents and other staff for international trips was not always approved in accordance with the FTR and EPA travel policy. We found that several PSD agents and former Administrator's staff received approval for business-class travel without a formal request, as required by EPA policy. Others who submitted a formal request received approval without the required analysis.

Flight duration alone does not qualify as the basis for entitlement of business-class travel.

FTR §301-10.123(b)(6) and §301-10.125(a)(3) allow the use of business class if the scheduled flight time—including non-overnight stopovers and change of planes—is in excess of 14 hours and if the traveler is required to report to duty the following day or sooner. The EPA's policy under RMDS 2550B, Section V, *Travel in Excess of 14 Hours*, states that the approving officials should also consider the constructive costs and the purpose and urgency of the trip. Constructive costs include the cost of business class versus coach class plus the cost of reimbursements in conjunction with a rest stop. The purpose and urgency of the trip considers whether the travel is so urgent or unexpected that it cannot be delayed or postponed and the traveler is unable to schedule a rest stop or an earlier flight that would allow for a rest period before having to report for duty.

Per the EPA's RMDS 2550B, Section V, *Travel Accommodations*, EPA employees must use coach class for official travel unless delegated officials grant an exception for other than coach class. A request for an exception to use other than coach class (business class) requires a memorandum from the employee's office director or equivalent to the appropriate delegated officials for approval of business class. The designated approver for the use of business class for the Administrator's staff is the Deputy Chief of Staff; for all other employees it is their Assistant Administrator/Deputy Assistant Administrator.

The use of business-class travel for staff and PSD agents was related to international trips. The business-class travel identified included the Australia trip in August 2017 and one segment for an employee's flights for the Morocco trip in December 2017. We did not review all vouchers for these trips. For the four selected vouchers reviewed for the Australia trip (two each for PSD and the former Administrator's staff), all employees flew round-trip business class. The travel authorizations for the former Administrator's staff noted that the "airfare exceeded the daily threshold of \$5,000 due to the length of the flights—over 20 hours each way." However, the staff did not submit an exception request to their designated approving official—the Deputy Chief of Staff—for the upgrade to business class, as required under EPA policy. The length of the flight alone does not constitute sufficient justification to approve business-class accommodation.

The two PSD agents submitted exception requests and their Director submitted a written request to their acting Assistant Administrator as required by the EPA policy. The request was approved prior to the travel. However, the request and approval were based only on the fact that the travel time—including stopovers and change of planes—exceeded 14 hours. The request also included that the former Administrator's staff were traveling in business class. However, the approval did not address the constructive costs or the urgency of the business, as required under the FTR and EPA policy.

In another instance, the acting Deputy Chief of Staff approved the use of business class for a staff member traveling with the former Administrator on the Morocco trip without the required analysis. The use of business class pertained to the international segment of the return flight from Morocco and cost close to \$3,000 more than the coach-class fare. The approval was based solely on the fact that the flight time—including the stopover—exceeded 14 hours and did not include an analysis of the constructive costs or the urgency of the business, as required under EPA policy.

The use of business class for the Morocco trip was discussed with the agency. The Controller said the upgrade was fully justified and constructive costs and urgency of mission were considered, even though the factors were not documented in the approval memorandum. The agency provided no documentation to show these factors were considered. Without additional documentation, the OIG cannot confirm that the constructive costs and urgency of mission were considered.

Conclusion

Senior management officials approved the use of business-class travel for the PSD and the former Administrator's staff without meeting the requirements of the FTR and EPA policy. These approvals show a lack of understanding of the requirements for the use of business-class travel. Approving the use of business class without analyzing the constructive costs and justifying the urgency of mission violates EPA policy and results in unnecessary and/or unjustified costs.

Recommendations

We recommend that the Chief Financial Officer:

12. Implement controls to verify that the use of first/business-class travel complies with the requirements of the Federal Travel Regulation and EPA policy in Resource Management Directive System 2550B prior to approval of the travel authorization.
13. Provide guidance on documentation needed to support approval for first/business-class travel.
14. Identify and review all business-class travel claimed for the staff and Protective Service Detail agents who accompanied the former Administrator on travel from March 2017 through his resignation in July 2018 for proper approval. Where policy was not followed, recover any excess costs claimed for the use of business class.

Agency Comments and OIG Evaluation

The agency disagreed with Recommendations 12 and 14 and agreed with Recommendation 13.

For Recommendation 12, the agency believed sufficient controls were in place through the agency's travel policy and the Memorandum of Understanding with BCD, its travel management contractor, which requires compliance with the FTR. We disagree with the agency that adequate controls are in place. The agency's record shows otherwise. As explained in the report, we found that the use of business-class travel by the former Administrator's staff and PSD agents was not always approved in accordance with the FTR and/or EPA travel policy. We found that several PSD agents and the former Administrator's staff received approval for business-class travel without a formal request as required by EPA policy. Others who submitted a formal request received approval without the required analysis.

For Recommendation 13, the agency provided several agencywide training courses in 2018, including one specific for OA staff and management. However,

the training courses did not cover requirements for approval of first/business-class travel.

For Recommendation 14, the agency stated that proper approvals were provided to agency staff and PSD agents accompanying the former Administrator because sufficient approval authority exists and there is no need to recover any costs. The agency's comment is nonresponsive to our recommendation, which relates not to approval authority but compliance with the FTR and EPA policy. Specifically, a sample of the travel vouchers revealed that several PSD agents and the former Administrator's staff used business-class flights for international trips without a formal request for such accommodation, as required by EPA policy. Others who submitted a formal request received approval based solely on the fact that the total flight time exceeded 14 hours, and they did not include the required analysis to address the constructive costs and mission urgency, as required by the FTR and EPA policy.

As discussed in Chapter 4 of this report, in the subsection *First/Business-Class Exceptions Granted Without Sufficient Justification to Support Security Concern*, the Controller issued a memorandum retroactively approving all other than coach-class accommodations for former Administrator Pruitt, the PSD and support staff that occurred during fiscal years 2017 and 2018 due to security concerns. While the retroactive approval memorandum referenced approval of support staff's use of first-class travel due to security concerns, the agency previously had asserted that the justification for support staff travel in other than coach-class accommodations (business class) was for reasons unrelated to the security exception. The agency has provided no explanation of how support staff's use of business-class travel is related to the security concerns relating to the former Administrator.

We consider Recommendations 12, 13 and 14 unresolved with resolution efforts in progress.

The agency's full response and our comments are in Appendix D, OIG Responses 24, 25 and 26.

Justified Use of Military and Charter Flights

The former Administrator's use of military and charter flights was justified and in compliance with EPA policy and the FTR. The EPA's RMDS 2550B, Section V, *Federal Government Aircraft*, states that the EPA's use of a federal government aircraft—chartered or federal government-owned—must comply with Office of Management and Budget Circular A-126, *Improving the Management and Use of Government Aircraft*, May 22, 1992. The EPA must determine the service necessary to fulfill a mission requirement, including exceptional, scheduling, communication or security requirements, or if there is a substantial cost savings to

the government. These Office of Management and Budget guidelines are implemented in FTR §§301-10.261 through -10.264.

The former Administrator incurred travel costs of \$101,761 for three military and two charter flights. The purpose of the trips, along with dates and costs, are identified in Table 7.

Table 7: Use of military and charter flights

Travel date	Type	Destination	Purpose	Costs
03/15/17	Military	DC - Detroit	Travel to/from with President	\$45,000
06/07/17	Military	DC - Cincinnati – JFK (New York)	Travel to Cincinnati with President and to JFK without President	36,069
09/09/17	Military	DC - Camp David	Cabinet meeting with President	n/c
Total military flights				\$81,069
07/27/17	Charter	Tulsa – Guymon – Oklahoma City	<i>Waters of the United States State</i> Action tour	\$15,000
08/04/17	Charter	Denver - Durango	Gold King Mine meeting	5,692
Total charter flights				\$20,692
Total military and charter flights				\$101,761

Source: Cost data from the EPA's Compass Data Warehouse provided by the agency.

The former Administrator's use of military flights resulted from three trips associated with the President of the United States. The former Administrator participated in an event related to EPA regulations with the President in Detroit, Michigan. The cost of the Detroit trip and events was shared with the White House. The event costs included such items as staging, lighting, drapes and tables. The EPA's share was paid for under a reimbursable agreement with the Executive Office of the President that was reviewed and approved by the agency's Office of Acquisition Management. As the costs were not paid through the travel system and did not follow the travel voucher process, evaluating the validity of the procurement was outside of our audit scope.

The former Administrator was directed by the President to attend and participate in water infrastructure-related public events in Cincinnati, Ohio, prior to his previously scheduled flight from the John F. Kennedy International Airport in New York to Rome, Italy. After the events with the President, the former Administrator and his staff flew via military aircraft from Cincinnati to JFK to catch an evening flight to Rome, where the former Administrator represented the United States at the G-7 Environment Ministerial. The agency had determined this trip to be mission critical. According to the approval documents, there were no commercial flights that would allow the former Administrator to connect to the scheduled flight at JFK, nor were there other viable flight itineraries that would arrive in Italy on schedule for the former Administrator's obligations. The FTR allows for the use of military flights to meet exceptional scheduling needs. The use was properly approved by the agency's General Counsel.

The last military flight, to Camp David, was provided by the White House and did not result in any transportation costs to the EPA.

The former Administrator's use of chartered flights included a planned flight to Guymon, Oklahoma, as part of the *Waters of the United States* State Action tour. The charter was necessary because, due to the remote location of the meeting site, commercial flights were not available. The use of the second charter was an unplanned flight from Denver to Durango, Colorado, for a meeting at the Gold King Mine, where a major spill previously had occurred. The use of the charter resulted from weather delays with a booked commercial flight; the charter was needed to meet the former Administrator's schedule. Our audit found that the use of the charter flight was justified under the FTR, which allows for the use of charters to meet scheduling needs. These flights were properly approved by the agency's acting Principal Deputy General Counsel and acting General Counsel in accordance with EPA policy.

Conclusion

The costs incurred for the former Administrator's use of military and charter flights were properly approved. The agency's General Counsel determined that these actions complied with Office of Management and Budget Circular A-126 and FTR requirements. Based on supporting documentation, these actions were justified and allowed under the referenced regulations and EPA travel policy. Consequently, we make no recommendations regarding the use of military or chartered flights.

Agency Comments and OIG Evaluation

The agency provided no comments on this finding.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	16	Evaluate and determine whether the increased airfare costs estimated at \$123,942 related to former Administrator Pruitt's use of first/business-class travel without sufficient justification and proper approval, for the period March 1, 2017, through December 31, 2017, should be recovered and, if so, from which responsible official or officials, and direct recovery of the funds.	U	Chief Financial Officer		\$124
2	16	For the period January 1, 2018, through his resignation in July 2018, evaluate and determine whether any costs related to former Administrator Pruitt's use of first/business-class travel without sufficient justification and proper approval should be recovered and, if so, from which responsible official or officials, and direct recovery of the funds.	U	Chief Financial Officer		
3	24	Implement controls to verify the approving official has adequate authority prior to granting first/business-class exceptions.	C	Chief Financial Officer	03/28/19	
4	24	Implement controls agencywide to verify that the use of other than coach-class travel is properly justified and documented prior to approval of the travel authorization.	U	Chief Financial Officer		
5	27	Implement controls to verify contract fares are used unless the non-contract fares are properly justified and documented.	U	Chief Financial Officer		
6	29	Clarify EPA policy in Resource Management Directive System 2550B on the requirements for justifying and documenting carrier/flight/airfare selection when there are no contract fares.	U	Chief Financial Officer		
7	29	Implement controls within the Office of the Administrator to include adequate justification to support the use of first/business-class travel and for carrier/flight/airfare selection when there are no contract fares.	U	Chief of Staff		
8	33	Implement controls to verify appropriate approval and adequate justification for lodging over 150 percent of per diem and minimize after-the-fact approvals.	C	Chief Financial Officer	02/19/19	
9	35	Implement controls within the Office of the Administrator to confirm that adequate cost comparisons are provided before approving travel authorizations where an alternative travel method is used (i.e., when the direct or usually taken routes are not used).	U	Chief of Staff		
10	38	Clarify the requirement and importance of trip reports for all international travel.	R	Assistant Administrator for International and Tribal Affairs	09/30/19	
11	38	Implement controls to verify that international trip reports are accurate and complete.	R	Assistant Administrator for International and Tribal Affairs	09/30/19	

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
12	40	Implement controls to verify that the use of first/business-class travel complies with the requirements of the Federal Travel Regulation and EPA policy in Resource Management Directive System 2550B prior to approval of the travel authorization.	U	Chief Financial Officer		
13	40	Provide guidance on documentation needed to support approval for first/business-class travel.	U	Chief Financial Officer		
14	40	Identify and review all business-class travel claimed for the staff and Protective Service Detail agents who accompanied the former Administrator on travel from March 2017 through his resignation in July 2018 for proper approval. Where policy was not followed, recover any excess costs claimed for the use of business class.	U	Chief Financial Officer		

¹ C = Correction action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

Cost Details for Trips Taken by Former Administrator

	Former Administrator's travel period ^a	Destinations	Former Administrator costs	Staff costs	PSD costs	Other costs ^b	Total
1	03/06/17 – 03/07/17	Scottsdale, AZ Tulsa, OK ^c	\$739	\$1,343	\$7,773	-	\$9,854
2	03/08/17 – 03/12/17	Houston, TX Tulsa, OK ^b	1,039	4,791	8,092	-	13,923
3	03/15/17 – 03/15/17	Detroit, MI Nashville, TN	-	36	2,816	^d \$45,000	47,852
4	03/23/17 – 03/27/17	Oklahoma City, OK Tulsa, OK ^b	615	1,901	5,588	-	8,104
5	04/12/17 – 04/24/17	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	4,182	22,272	31,228	-	57,683
6	05/04/17 – 05/08/17	Tulsa, OK	1,043	1,017	3,285	-	5,345
7	05/11/17 – 05/15/17	Colorado Springs, CO Tulsa, OK ^b	3,052	2,336	8,515	-	13,903
8	05/16/17 – 05/17/17	New York, NY	2,055	3,910	4,937	-	10,903
9	05/19/17 – 05/22/17	Tulsa, OK	2,123	849	2,567	-	5,538
10	05/25/17 – 05/29/17	Tulsa, OK	2,997	2,090	8,964	-	14,051
11	06/05/17 – 06/06/17	New York, NY	2,201	2,564	369	-	5,134
12	06/07/17 – 06/11/17	Cincinnati, OH Rome, Italy Bologna, Italy	8,998	49,413	39,522	36,069	134,001
13	06/22/17 – 06/26/17	Tulsa, OK	2,799	857	6,850	-	10,506
14	06/30/17 – 06/30/17	Manhattan, NY	823	1,701	2,535	-	5,059
15	07/06/17 – 07/06/17	Birmingham/ Wilsonville, AL	2,623	5,795	3,069	-	11,487
16	07/07/17 – 07/07/17	Cochran, GA	1,963	613	1,953	-	4,528
17	07/17/17 – 07/20/17	Salt Lake City, UT Minneapolis, MN Little Rock, AK	5,768	20,419	15,888	-	42,076
18	07/24/17 – 07/14/17	Charleston, SC	1,644	4,637	1,233	-	7,514
19	07/26/17 – 07/30/17	Tulsa, OK Oklahoma City, OK Guymon, OK	2,933	6,731	9,258	^e 15,000	33,922
20	08/02/17 – 08/10/17	Indianapolis, IN Denver, CO Tulsa, OK ^b Des Moines, IA Grand Forks, ND	7,180	39,287	68,668	^f 5,692	120,827
21	08/30/17 – 09/05/17	Corpus Christi, TX Tulsa, OK ^b	3,931	83	11,146	-	15,161
22	09/09/17 – 09/10/17	Thurmont, MD	25	498	-	-	523

	Former Administrator's travel period ^a	Destinations	Former Administrator costs	Staff costs	PSD costs	Other costs ^b	Total
23	09/14/17 – 09/19/17	Houston, TX Tulsa, OK ^b New York, NY	4,407	9,441	14,342	-	28,189
24	09/27/17 – 09/28/17	New York, NY	2,672	4,868	6,496	-	14,035
25	10/04/17 – 10/09/17	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK ^b Lexington, KY	5,706	20,727	22,734	-	49,167
26	10/11/17 – 10/12/17	Jackson, MS	3,272	6,572	5,015	-	14,860
27	10/19/17 – 10/20/17	Houston, TX Omaha, NE	3,979	11,221	9,510	-	24,710
28	10/23/17 – 10/23/17	Nashville, TN	2,877	2,198	2,084	-	7,159
29	10/27/17 – 10/30/17	New Orleans, LA Tulsa, OK ^b	2,303	4,396	10,321	-	17,020
30	11/08/17 – 11/08/17	Chicago, IL	1,317	1,903	5,918	-	9,138
31	11/09/17 – 11/09/17	Kiawah Island, SC	3,155	4,574	2,794	-	10,523
32	11/27/17 – 11/27/17	Orlando, FL	2,221	3,253	5,149	-	10,623
33	11/30/17 – 12/04/17	Louisville, KY Des Moines, IA Tulsa, OK ^b	3,486	10,559	12,766	-	26,812
34	12/09/17 – 12/13/17	Rabat, Morocco Marrakech, Morocco	17,631	42,132	28,440		88,204
		Total	\$111,761	\$294,987	\$369,827	\$101,761	\$878,336

Source: OIG analysis of travel data from the EPA's Compass Data Warehouse.

Note: Numbers in ***bold italics*** are slightly off due to rounding.

^a Travel period for the former Administrator's advance staff and security detail will vary.

^b These are military and charter flight costs.

^c Trips to Tulsa for personal reasons, not for official business.

^d Military flight with the President of the United States.

^e Charter flight from Tulsa to Guymon, OK, return to Oklahoma City.

^f Charter flight from Denver to Durango, CO.

Cost Details for Former Administrator's Canceled Trips

	Former Administrator's travel period ^a	Destination	Former Administrator costs	Staff costs	PSD costs	Total	Note
	Domestic						
1	04/27/17 – 04/28/17	New York, NY	\$472	\$1,143	\$2,055	\$3,670	1
2	06/15/17 – 06/19/17	Tulsa, OK	68	49	95	212	2
3	06/21/17 – 06/21/17	Manhattan, NY	123	2,115	2,029	4,267	3
4	08/23/17 – 08/24/17	Lincoln, NE	68	326		394	4
		Domestic subtotal	\$731	\$3,633	\$4,179	\$8,543	
	International						
5	08/21/17 – 08/21/17	Mexico City, Mexico	\$68	\$177	\$203	\$448	4
6	08/31/17 – 09/08/17	Sydney, Australia	1,927	41,096	54,687	97,710	4
		International subtotal	\$1,995	\$41,273	\$54,889	\$98,158	
		Total	\$2,726	\$44,907	\$59,069	\$106,701	

Source: OIG analysis of travel data from the EPA's Compass Data Warehouse.

^a Travel period for the former Administrator's advance staff and security detail varied.

The explanations provided by the agency for trip cancellations are summarized in the notes below:

Note 1: After a 2-hour delay on a 10 p.m. flight, there was a decision made to cancel this trip. BCD was able to void the ticket and it was refunded by the airlines. However, it was already past the cancellation period according to hotel policy. As a result, there was a no-show charge for the hotel.

Note 2: The trip was canceled due to logistics.

Note 3: The former Administrator had been invited to speak at the Manhattan Institute and to participate in media interviews. This travel was canceled the day before departure due to a medical reason.

Note 4: These trips were canceled due to Hurricane Harvey. The former Administrator needed to remain in place to address the impact of the hurricane.

Former Administrator's Travel Costs by Cost Category

	Travel Period	Destination	Airfare ^a	Lodging ^b	Meals & incidental expenses	Other ^c	Total ^d
1	03/06/17 – 03/07/17	Scottsdale, AZ Tulsa, OK	\$594		\$89	\$56	\$739
2	03/08/17 – 03/12/17	Houston, TX Tulsa, OK	576	\$284	83	97	1,039
^e 3	03/15/17 – 03/15/17	Detroit, MI Nashville, TN					
4	03/23/17 – 03/27/17	Oklahoma City, OK Tulsa, OK	450		54	112	615
5	04/12/17 – 04/24/17	New York, NY Pittsburgh, PA Tulsa, OK Chicago, IL Columbia, MO Dallas, TX Naples, FL	2,480	554	665	484	4,182
6	04/27/17 – 04/28/17	New York, NY		252	111	109	472
7	05/04/17 – 05/08/17	Tulsa, OK	848		128	68	1,043
8	05/11/17 – 05/15/17	Colorado Springs, CO Tulsa, OK	2,691		134	228	3,052
9	05/16/17 – 05/17/17	New York, NY	1,316	450	111	178	2,055
10	05/19/17 – 05/22/17	Tulsa, OK	1,927		128	68	2,123
11	05/25/17 – 05/29/17	Tulsa, OK	2,628	145	137	87	2,997
12	06/05/17 – 06/06/17	New York, NY	1,588	340	111	162	2,201
13	06/07/17 – 06/11/17	Cincinnati, OH Rome, Italy Bologna, Italy	6,688	1,339	603	368	8,998
14	06/15/17 – 06/19/17	Tulsa, OK				68	68
15	06/21/17 – 06/21/17	Manhattan, NY				123	123
16	06/22/17 – 06/26/17	Tulsa, OK	2,604		128	68	2,799
17	06/30/17 – 06/30/17	Manhattan, NY	646		56	121	823
18	07/06/17 – 07/06/17	Birmingham/ Wilsonville, AL	2,438		44	141	2,623
19	07/07/17 – 07/07/17	Cochran, GA	1,847		38	78	1,963
20	07/17/17 – 07/20/17	Salt Lake City, UT Minneapolis, MN Little Rock, AK	4,627	693	212	237	5,768
21	07/24/17 – 07/24/17	Charleston, SC	1,154	269	52	169	1,644
22	07/26/17 – 07/30/17	Tulsa, OK Oklahoma City, OK Guymon, OK	2,604		179	151	2,933
23	08/02/17 – 08/10/17	Indianapolis, IN Denver, CO Tulsa, OK Des Moines, IA Grand Forks, ND	4,979	1,376	394	432	7,180
24	08/21/17 – 08/21/17	Mexico City, Mexico				68	68

	Travel Period	Destination	Airfare ^a	Lodging ^b	Meals & incidental expenses	Other ^c	Total ^d
25	08/23/17 – 08/24/17	Lincoln, NE				68	68
26	08/30/17 – 09/05/17	Corpus Christi, TX Tulsa, OK	3,703			228	3,931
27	08/31/17 – 09/08/17	Sydney, Australia	600	1,230		97	1,927
28	09/09/17 – 09/10/17	Thurmont, MD			10	15	25
29	09/14/17 – 09/19/17	Houston, TX Tulsa, OK New York, NY	3,330	804	194	79	4,407
30	09/27/17 – 09/28/17	New York, NY	1,791	595	111	174	2,672
31	10/04/17 – 10/09/17	Cincinnati, OH Colorado Springs, CO Phoenix, AZ Tulsa, OK Lexington, KY	4,813	468	198	228	5,706
32	10/11/17 – 10/12/17	Jackson, MS	2,978	93	65	137	3,272
33	10/19/17 – 10/20/17	Houston, TX Omaha, NE	3,610	107	96	166	3,979
34	10/23/17 – 10/23/17	Nashville, TN	2,744		44	88	2,877
35	10/27/17 – 10/30/17	New Orleans, LA Tulsa, OK	2,076		38	189	2,303
36	11/08/17 – 11/08/17	Chicago, IL	1,172		56	90	1,317
37	11/09/17 – 11/09/17	Kiawah Island, SC	2,866		52	238	3,155
38	11/27/17 – 11/27/17	Orlando, FL	2,056		44	121	2,221
39	11/30/17 – 12/04/17	Louisville, KY Des Moines, IA Tulsa, OK	3,197	109	89	91	3,486
40	12/09/17 – 12/13/17	Rabat, Morocco	16,164	863	529	76	17,631
		Total	\$93,783	\$9,972	\$4,976	\$5,757	\$114,487
		Percent of Total	81.9%	8.7%	4.3%	5.0%	100%

Source: OIG analysis of travel data from the EPA's Compass Data Warehouse and travel vouchers provided by the agency.

Note: Numbers in ***bold italics*** are slightly off due to rounding.

^a Starting early May 2017, most of the former Administrator's flights were premium class (first or business).

^b Lodging and meals and incidental expenses are a low percentage of the total costs because the former Administrator generally did not claim lodging and sometimes did not claim meal and incidental expenses for his trips to, and stops in, Tulsa; he generally stayed at his residence in Tulsa. However, costs were incurred by other, associated travelers.

^c Other costs included travel agent services fees, voucher fees and miscellaneous costs.

^d Total amount does not include military and chartered flight costs as they were mostly paid outside of the travel system and were not part of the former Administrator's vouchers.

^e The former Administrator did not incur costs related to this trip but costs were incurred by other, associated travelers.

Agency Response to Draft Report and OIG Comments



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

FEB 15 2019

MEMORANDUM

SUBJECT: Response to the November 26, 2018, Office of Inspector General's Draft Report, "Actions Needed to Strengthen Controls over the EPA Administrator's and Associated Staff's Travel", Project No. OA-FY17-0382

FROM: Ryan Jackson, Chief of Staff
Office of the Administrator

Holly Greaves, Chief Financial Officer
Office of the Chief Financial Officer

Susan Bodine, Assistant Administrator
Office of Enforcement and Compliance Assurance

Chad McIntosh, Assistant Administrator
Office of International and Tribal Affairs

TO: Charles Sheehan, Acting Inspector General
Office of Inspector General

Thank you for the opportunity to respond to the issues and recommendations presented in the Office of Inspector General Draft Report, Project No. OA-FY17-0382 pertaining to the former Administrator's and associated staff's travel. The agency has already completed corrective actions in accordance with certain recommendations prescribed in the Draft Report and has also implemented additional controls above and beyond those suggested by the OIG. For example, the former Administrator issued a memorandum requiring final approval over expenditures made by agency personnel over \$5,000 on his behalf to execute official duties by two of the three individuals: Deputy Administrator, Chief Financial Officer, or Chief of Staff. This control has continued since former Administrator Pruitt's departure.

The agency does, however, disagree with some of the facts listed in the draft report. In some cases, the recommendations made in the Draft Report go above and beyond requirements in the Federal Travel Regulation. In other cases, full consideration of supporting documentation and/or justifications provided to support our response were not accepted and were not included in the Draft Report. Our specific comments are below.

OIG Response 1: Our responses are in the detail sections below under OIG Responses 2 through 26.

Chapter 2: Frequency, Cost, and Extent of the Former Administrator's Official Travel

Chapter 2 of the draft report states that "Travel costs associated with the former Administrator's official travel totaled \$985,037, including \$878,336 for the 34 trips taken and \$106,701 for the six trips canceled." These totals include flights, hotels, and other travel expenses submitted to the Agency. However, of that amount, the OIG only "questioned excess airfare of \$123,941 associated with first/business-class trips taken by the former Administrator from March to December 2017."¹⁶ We have performed an analysis of the \$123,941, as recommended by the OIG in recommendation No. 1, and discuss our findings in the next section below.

Chapter 2 of the draft report states that the "former Administrator canceled six trips consisting of four domestic and two international trips. Although trips were canceled, travelers incurred costs resulting from cancellation fees/no-show hotel charges, and service fees." The agency provided detailed rationale and documentation for the trip cancellations, to include Hurricane Harvey and other justifiable and legitimate reasons.

OIG Response 2: Based on information provided by the agency, we added the trip cancellation rationales to Appendix B.

Chapter 2 of the draft report states that "six of the 16 Tulsa trips, the former Administrator cited being on official business." The OIG also found that "[the OIG] identified no specific criteria that would limit the Administrator's travel to, or stops in, Tulsa for the weekend or otherwise."¹⁷ It appears that the OIG does not question the reasons for the former Administrator's stops in Tulsa nor questions the official purposes for six of sixteen business reasons for visiting Tulsa.¹⁸ The OIG argues that the agency did not provide copies of requests from external parties for any of these six trips to Tulsa for official business and the travel documents did not contain the details to support the alternative travel required under EPA policy. The Agency provided OIG with travel authorizations and vouchers that articulated the official business descriptions in the justification section. The travel documents included justifications that shows that cost comparisons were completed and many of the trips turned out to be a "no cost" to the government. The Agency demonstrated that vouchers for "most of these trips indicated that the former Administrator paid his own airfare to Tulsa for the weekend." The agency demonstrated that vouchers for "most of these trips indicated that the former Administrator paid his own airfare to Tulsa for the weekend."¹⁹ Additionally, the Agency provided adequate cost comparison justification to determine the most advantageous method of travel.²⁰

¹⁶ US EPA, Office of Inspector General, Project No. OA-FY17-0382, *Draft Report "Actions Needed to Strengthen Controls over the EPA Administrator's and Associated Staff's Travel"* at pg 11. (February 11, 2019).

¹⁷ *Id.* at pg. 9.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See generally, Federal Travel Regulations, 41 Code of Federal Regulations, Chapters 300 through 304 (<http://gsa.gov/fttr>); EPA Travel Policy Procedure, "Resource Management Director System 2550B." (April 27, 2018)

OIG Response 3: The rationale for the trips to Tulsa, and whether the trips were in line with the EPA's mission, were within the discretion of the former Administrator and outside the scope of our audit. Our audit objectives were to provide factual information about the former Administrators' travel to determine whether the EPA's travel policy was adequately designed and if the policy and procedures were followed. For the former Administrator's stops in Tulsa, our audit only addresses whether the stops resulted in additional costs to the government.

We accepted the official trip purposes stated in the travel documents and summarized the costs incurred in connection with the former Administrator's trips based on the travel documents. When the travel documents state that the former Administrator paid his own way to or from Tulsa, it does not mean there were no costs to the government, as not all related costs, such as additional PSD costs, were considered. In Chapter 4 of this report, *Missing Detailed Support for Trips with Stops in Tulsa*, we cited examples of what factors the agency did not consider when stating there was "no cost" to the government.

Chapter 2 of the draft report states that "the former Administrator's travel authorizations with alternative travel included some cost comparisons for his self-initiated weekend stops in Tulsa." The OIG further states "the comparisons did not contain the required detail to support the alternative travel required under EPA policy."²¹ The Agency disagrees with OIG's presumption that the cost comparisons and detailed information to support alternative travel was not sufficient to support these facts. The agency's travel policy provides instructions for the use of non-contract carriers. As long as the selected fare is compliant with the exceptions for use of non-contract carriers as stated in the agency's travel policy and FTR, the traveler selects a reason for use of a non-contract carrier within the agency's travel system (via a selection within Concur), along with justification, prior to approval. Furthermore, the costs associated with the former Administrator's trips with stops in Tulsa included the most advantageous method of travel.

Finally, on April 27, 2018 the former Administrator issued an Agency policy regarding the Office of the Administrator approval process for Administrator expenses. Specifically, the policy states "effectively immediately, the Deputy Administrator, Chief of Staff, and Chief Financial Officer will have final approval over expenditures by agency personnel over \$5000 made on my behalf to execute my official duties. Implementation guidance will be forthcoming from the Deputy Administrator, Chief of Staff, and the Chief Financial Officer."²² This Agency policy continues to be in effect in the Office of the Administrator and goes above and beyond the FTR and EPA's travel policy. The Agency also provided to the OIG documentation that demonstrates implementation of this policy.

²¹ See fn. at pg. 3.

²² US EPA, Office of the Administrator, Final Policy from E. Scott Pruitt, Administrator, to Deputy Administrator, Assistant Administrators, and Regional Administrators, "Approval Process for Administrator Expenses. (April 27, 2018).

OIG Response 4: We addressed the agency's comments on the use of non-contract carriers in
OIG Response 10 and under Chapter 4, in the *Justification for Use of Non-Contract Air
Carriers Not Always Documented* section.

The new approval requirement in the agency's policy for trips with expenditures over \$5,000
does not affect the travel information presented in Chapter 2. The purpose of this chapter is to
summarize the former Administrator's travel based on the travel documents and information
provided by the agency. Our position on the new approval requirement is addressed in OIG
Responses 13, 14, 19 and 21 below.

Chapter 3: Administrator Pruitt's Use of First/Business-Class Travel Questioned as Unnecessary

The OIG questioned airfare associated with first/business-class trips taken by the former
Administrator. The estimated amount in question was \$123,941. As Chapter 3, Table 3
demonstrates, the OIG attributes \$61,971 of the \$123,941 specifically to first class airfare
associated directly with the former Administrator.²³ Our analysis of these trips concludes that all
remaining charges attributed to the former Administrator are valid. Specifically:

- One trip, to Colorado Springs, CO and Tulsa, OK on May 11, 2017, did not contain all
approval documentation as required by EPA policy. However, included instead was a
memorandum, dated May 1, 2017, from the Office of Protective Services Detail advising
against coach-class accommodations. Although the Office of the Administrator did not
seek approval from the Office of the Chief Financial Officer for this trip, the justification
for use of first-class accommodations was provided and consistent with Federal Travel
Regulation §301-10.123. Based upon the provided justification from PSD, there is no
legal justification to recover any additional costs incurred.
- One trip, to Tulsa, OK for the travel period May 4, 2017 – May 8, 2017 was cancelled.
- The stay in Tulsa before and after the trip during the period August 30, 2017 – September
5, 2017 was cited in Table 3, Note 2, as for personal reasons. It should be noted that the
former Administrator was on personal leave and was then called back to duty. EPA's
travel policy states that employees who are on leave from their official duty station and
are required to return to duty to perform official business receive reimbursement for the
cost of returning to their official station and the cost of returning to leave after the official
business is complete.

²³ See fn. 1.

OIG Response 5: The former Administrator's portion of the \$123,942 in excessive airfare included many more trips than the three noted. A detailed schedule of the costs by trip is included in Chapter 3 of this report. The agency has not provided the analysis to support its conclusion that the \$61,971 attributed to the former Administrator is valid.

Furthermore, the costs represent our estimate of the additional costs incurred by using first and business class compared to coach-flight accommodations and not the total airfare amounts. The costs are unrelated to the purpose of the trip and lack of justification for first class or any other issue. It is also important to note that the focus of our audit was to evaluate EPA compliance with the FTR, policy and procedures, not to determine the allowability of the travel expenditures, as we are not conducting a voucher audit.

Our response to the agency's comments on the details of the trips are summarized below:

- May 11, 2017, trip to Colorado Springs, CO, and Tulsa, OK
The May 1, 2017, memorandum was from a PSD agent to the former Administrator's travel coordinator. Neither employee had the authority to approve first-class accommodation. As a result, we do not consider the memorandum a valid justification for using first-class flights. These costs were retroactively approved by the Controller in a memorandum dated March 28, 2019. However, we disagree with the retroactive approval because the agency has not provided sufficient justification to support that valid security concerns existed at the time, as documented in Chapter 4 of this report and our PSD report noted in the *Prior Audit Reports* section (Report No. [18-P-0239](#)).
- May 4–8, 2017, trip to Tulsa, OK
The travel voucher indicated \$1,043.09 was incurred and reimbursed for this trip, including airfare of \$847.60 for flights from Washington, D.C., to Tulsa on May 4, 2017; and Detroit to Washington, D.C., on May 8, 2017. There was no indication of the trip being canceled.
- August 30–September 5, 2017, trip
Again, the cost represents the additional costs incurred for using first/business-class flights, not whether the agency should have paid for the trip. Therefore, the reason the former Administrator was in Tulsa before and after the trip has no impact on the excessive costs.

The remaining \$61,971 of the \$123,941 is attributed to the former Administrator's PSD. We noted that the OIG simply doubled the \$61,971 attributed to the former Administrator to account for the PSD travel costs under the assumption that a PSD agent always accompanied the former Administrator in first class. Furthermore, during our review we discovered that PSD agents were not always ticketed in first class for the trips in question. For example, the former Administrator travelled to Charleston, SC on November 9, 2017 in first class. However, the former Administrator's PSD did not travel to Charleston, SC on November 9, 2017 in first or business class.

OIG Response 6: We agree that the amount estimated for the PSD was simply doubling the amount determined for the former Administrator. As noted in the report, this was an estimate based on our understanding from discussions with the PSD that, due to security protocols, an agent was required to fly with and sit near the former Administrator.

On April 22, 2019, after the draft report response period, the agency provided a schedule of its estimate of the excess costs for the PSD agents accompanying the former Administrator in first and business class. The schedule shows there were no PSD agents accompanying the former Administrator in first and business class on eight trips, with a revised estimated excess airfare of \$35,980 for the PSD agents.

We performed a limited review of the cost schedule and noted several discrepancies between the schedule and the documents in the EPA's official travel system, Concur. For example, for four of the trips, the agency's PSD cost schedule shows "No PSD/Staff Premium Travel Costs" while travel documents in Concur show PSD agents on the same first-class flights as the former Administrator. As a result of the noted deficiencies, we cannot rely on the PSD cost schedule provided by the agency. Our estimated excess airfare amount of \$61,971 for the PSD agents for first/business-class travel will remain unchanged.

The agency's review and conclusion that the former Administrator was not accompanied by PSD agents in first and business class for several of trips raises a doubt as to whether the former Administrator's first/business-class flights were necessary for security reasons. The cornerstone of the agency's stated justification for PSD agents traveling first class was that the PSD agents could not always sit in close proximity to properly protect the former Administrator when flying coach class.

Chapter 3 of the draft report also states "Agency officials requested and granted first/business-class exceptions to the former Administrator and the PSD agents who accompanied him based on the security exception in the FTR. However, the exceptions were granted without sufficient justification to support endangerment of the former Administrator's life, one of the circumstances for exception contained in the FTR." We disagree with the OIG's presumption that the justification provided was not sufficient to support the exception. The security exception was granted based on a June 1, 2017 memorandum which made note of the prevailing security assessments provided by the PSD and potential threat information obtained from the EPA OIG. This documentation is consistent with the requirements for the exception outlined by the FTR. The draft report appears to assume that more complex assessment of threats against the Administrator can reduce or eliminate the need for physical protection of a particular standard, thereby reducing costs. That is not the case.

At EPA, the OIG Office of Investigations sets policy, coordinates, and has overall responsibility for criminal investigations of allegations of threats against EPA employees. If the threats are against the Administrator, the OIG shares its information with the PSD. The EPA Office of Homeland Security (OHS) provides information to the PSD on any potential national security threats – domestic or international. The PSD uses information from OHS and the OIG, as well as open-source information and information from our federal/state/local law enforcement partners, to provide protection. EPA will continue this information collection to identify risks to

the safety of the EPA Administrator and to mitigate known threats. The PSD will share this information with the Office of the Administrator to allow that Office to administratively determine if the threats or other indications of risk warrant continued provision of protective services and to learn the preferences of the protectee.

OIG Response 7: The OIG was not involved, and the agency did not provide evidence of its consultation with the Office of Homeland Security (OHS) prior to the approval of the former Administrator's exception on June 2, 2017. As stated in the report, the package the OIG provided at the agency's request was dated August 16, 2017—two-and-a-half months after the exception approval. We also met with the Controller and acting Deputy General Counsel, on separate occasions, to obtain background information on the exception. We were advised that the agency held two meetings prior to the exception approval. Both agency officials said the meetings were attended by the PSD, OGC and OA, and the OIG or OHS were never mentioned as attendees. The acting Deputy General Counsel also provided the meeting invitations with the listing of attendees, which did not indicate OIG or OHS representatives were invited. In meetings with the OIG, the acting Deputy General Counsel specifically confirmed that the OIG or OHS were not present and had not discussed any threat or threat assessments prior to the exception approval while she was present. The Controller and the acting Deputy General Counsel also stated that they did not have the security clearance needed to be involved in discussions regarding the security concerns.

The agency further stated that the PSD also used open-source information and information from federal/state/local law enforcement partners for its decision. However, the agency has not mentioned open-source information or law enforcement partners in prior meetings and the agency has not provided documentation to support this statement.

Chapter 4: Actions Needed to Strengthen Internal Controls over Travel

Delegation for Approval of Administrator's Travel and EPA Policy for Granting Exceptions

The report indicated two instances where it found that the approval of the Administrator's travel had been improper because the individual approving it did not have delegated authority. EPA's RMDS 2550B, Official Travel, Section V, Travel Accommodations requires that EPA employees use coach class for official travel unless delegated officials grant an exception for a higher class. The Chief Financial Officer and Deputy Chief Financial Officer are delegated the authority to approve the use of other than coach class for the Administrator. In accordance with EPA Delegation 1-17A, Domestic Travel, a formal signed delegation, from the former CFO in the previous administration to the Controller was in effect at the time the exception was granted. The Acting CFO and the Acting Controller were both unaware of a limitation in the redelegation that restricted the Controller's approval authority to agency employees at the office director level or below, which would not include the Administrator. However, the Acting CFO did not object to the Acting Controller's role of approving first class travel, and he orally concurred in the determination. Because the Acting Controller was operating pursuant to this implicit authority, the approvals for the Administrator's travel were valid. The Office of General Counsel has rendered an opinion on the delegated authority that is included at the end of this response.

OIG Response 8: The OIG identified more than two instances where the former Administrator's travel above coach class had been approved without proper authority. Starting May 16, 2017, the former Administrator had traveled almost exclusively above coach class (mostly first class) based on an exception approved by an individual who at the time did not have the authority to grant such approval.

It should be noted that the OGC opinion was initiated internally within the agency and not at the OIG's request. As stated in the report, we disagree with the opinion rendered by OGC staff contending that the acting Controller was operating pursuant to an implied delegation of authority from the acting Chief Financial Officer and, therefore, the approvals for the former Administrator's travel were valid. The OGC's contention is based on its understanding that the acting Chief Financial Officer did not object to the acting Controller's role of approving first-class travel and he orally concurred in the determination.

The agency's position contradicts the EPA's expressed, written governing tenets for delegations and redelegations of authority—namely, that the agency officials must not exceed the authority granted to them and that all delegations and redelegations are to be made in writing. See EPA 1200 Delegation Manual, Introduction, Section 2(5)-(6).

The agency's position would allow restrictions in explicit written delegations to be nullified by the mere claim by any agency official that he/she is unaware of the limits of his/her authority. The OIG believes such a position is entirely contrary to sound, principled management practices incumbent on all agencies. Furthermore, contrary to the OGC's opinion, the agency's March 28, 2019, memorandum acknowledges that the acting Controller did **not** have proper authority to approve other than coach-class accommodation.

Improper Granting of First/Business-Class Exceptions

The report indicated the agency did not comply with the FTR because “the former Administrator and PSD agents traveling with him used the same exception approval as the basis for justifying first/business-class travel for all trips taken after May 15, 2017- *the effective date of the approval*. There was no evidence of a trip-by trip analysis or separate approval by the Controller for each trip as required by the FTR.” Although this would be the best practice, the FTR does not require separate written approvals where, as here, the PSD agent affirmed before each trip that the threat continued to exist.

Counsel has rendered an opinion on the delegated authority that is included at the end of this response.

OIG Response 9: Note 2 to FTR §301-10.123 states that “blanket authorization of other than coach-class transportation accommodations is prohibited and shall be authorized on an individual trip-by-trip basis, unless the traveler has an up-to-date documented disability or special need.” The trip-by-trip approval is also required under EPA policy. The Office of the Controller confirmed through email correspondence with the OIG that first/business-class travel must be approved on a trip-by-trip basis. The agency did not provide any evidence to support that the PSD affirmed before each trip that the threat continued to exist. There is no evidence of trip-by-trip approval for the former Administrator from the Chief Financial Officer or Deputy Chief Financial Officer. In addition, there is no evidence of trip-by-trip approval for PSD agents. See Response 8 for our concerns about the OGC staff opinion on “implied delegation.”

On March 28, 2019, the Controller provided retroactive approval for all first-class accommodations during fiscal years 2017 and 2018 for the former Administrator, his protective detail and staff. However, we disagree with the retroactive approval because the agency has not provided sufficient justification to support that valid security concerns existed for the periods in question, as documented in Chapter 4 of this report and our audit of the PSD noted in the *Prior Audit Reports* section (Report No. [18-P-0239](#)).

Unjustified Use of Non-Contract Air Carriers

The agency disagrees with the assertion that the former Administrator, his staff and PSD agents used non-contract carriers without proper justification. As noted in the Draft Report, the EPA complies with GSA’s city-pair contract and our travel policy requires the use of contract carriers unless a specific exception applies.

The former Administrator, his staff and PSD agents each contacted the Travel Management Center (BCD), an EPA contractor, to purchase the non-contract carrier fares. BCD is required to follow the FTR per an MOU with the agency. There is no separate requirement in the EPA/BCD contract for BCD to document the justification for selecting non-contract carriers – only the requirement that BCD follow the FTR. The agency recommended that the OIG inquire of BCD regarding the questioned trips, and they did not. Without such additional evidence, we disagree with the assertion that the agency has not demonstrated that an FTR exception was met for using other than city-pair contract fares, and do not concur with recommendation No. 5.

OIG Response 10: BCD compliance with the FTR was beyond the scope of the audit. Further, the EPA's use of BCD does not relieve either the traveler's or agency's responsibility for complying with the FTR and EPA policy.

The FTR and the EPA travel policy require the use of a contract carrier unless one of the FTR exceptions in §301-10.107 applies. FTR § 301-10.108 also requires the agency to determine that the proposed non-contract transportation is practical and cost effective for the government. The agency used the Concur selection *contract fare used or no contract fare exists for city-pair market*. The former Administrator did not include additional narrative in the text box to provide justification for the use of a non-contract carrier. For the staff and PSD agents, some of the trips had additional comments for justification in the vouchers or travel authorizations in addition to the Concur selection justification, but many did not.

Our analysis of the former Administrator's travel showed that, in most instances, the statement in the Concur selection was not true. Our search showed that there were contract fares for the routes traveled but the travelers selected the non-contract carriers and did not always include an explanation. Use of the selection alone does not provide the details to verify that an exception applies or a cost-effectiveness determination was made.

Unjustified Use of First/Business-Class Flights and Carriers

Chapter 3 of the draft report states "Agency officials requested and granted first/business-class exceptions to the former Administrator and the PSD agents who accompanied him based on the security exception in the FTR. However, the exceptions were granted without sufficient justification to support endangerment of the former Administrator's life, one of the circumstances for exception contained in the FTR. The exception for the former Administrator was also approved by an agency official who did not have the appropriate approval authority."²⁴

The agency disagrees and concludes that the "services that the PSD provides to the Administrator are based on unsupported management decisions and discretion" were a justified level of protections services.²⁵ If the threats are against the Administrator, the OIG shares its information with the PSD. The EPA Office of Homeland Security provides information to the PSD on any potential national security threats – domestic or international. The PSD uses information from multiple sources, including open-source information and information from our federal/state/local law enforcement partners, to provide protection. Therefore, the Agency's position is that the exceptions were granted with sufficient justification and analysis from PSD and multiple sources. The Agency concluded that there was sufficient justification to support the exception which made note of the prevailing security assessments provided by the PSD and high volume of potential threat information obtained from the EPA OIG.

²⁴ See fn. 9.

²⁵ US EPA, Office of Inspector General Draft Report, Project No. OPE-FY16-0265, "Response to the May 30, 2018, Office of Inspector General's Draft Report, Agents Assigned to Protective Service Detail Lack Statutory Authority to Protect the EPA Administrator" at pg. 39 (June 29, 2018)

Lastly, as described above, we disagree with recommendation No. 6 as a requirement of our contract with BCD is compliance with the FTR, and our contract does not prescribe the manner by which they demonstrate such compliance. We would encourage the OIG to inquire of BCD regarding the questioned trips for documentation that the trips in question met an exception under the FTR.

OIG Response 11: As explained in OIG Response 7, the agency provided no evidence to support OIG involvement or the agency's consultation with the OHS prior to the former Administrator's June 2, 2017, exception approval. Further, the agency has not provided any documentation, either under this audit or our audit of the PSD noted in the *Prior Audit Reports* section (OIG Report No. [18-P-0239](#)), to support its statement that the PSD used open-source information and information from federal/state/local law enforcement partners for its decision.

Improper Approval of Staff and PSD Use of Business-Class Travel

The agency disagrees with recommendation No. 12, as sufficient controls are in place through agency travel policy and related agreements requiring compliance with the FTR that are agreed to by contractor provided travel related services. With respect to a review of all business class travel claimed for the staff and PSD agents who accompanied the former Administrator was properly reviewed and approved in accordance with agency policy. In reference to the PSD agent who flew from Oklahoma City to Washington D.C., the agency reviewed the travel voucher and determined the PSD agent traveled coach during the trip, not business class. In another instance, the agency disagrees with the assertion that the justification for a staff member traveling with the former Administrator did not contain sufficient analysis. Documentation was presented to the OIG to support the constructive costs and urgency of mission.

OIG Response 12: As previously discussed with the agency, the OIG removed discussion of the issue on the Oklahoma City trip from this report. For the remaining trips, the *Improper Approval of Staff and PSD Use of Business-Class Travel for International Travel* section provides detailed explanations to support our conclusion that the approvals did not address the constructive costs and mission urgency.

RESPONSE TO RECOMMENDATIONS:

RECOMMENDATION 1: *We recommend that the Deputy Administrator Evaluate and determine whether the increased airfare costs of \$123,941 related to the former Administrator's use of first/business class travel without sufficient justification and proper approval for the period March 1, 2017, through December 31, 2017, should be recovered and, if so, from which responsible official or officials, and direct recovery of the funds.*

- The agency agrees with the recommendation. The Office of the Controller completed an analysis and determined that all of the \$123, 941 incurred between March 1, 2017, through December 31, 2017, is valid.
- In addition, the former Administrator issued a memorandum requiring final approval over expenditures made by agency personnel over \$5,000 on his behalf to execute official

duties by two of the three individuals: Deputy Administrator, Chief Financial Officer, or Chief of Staff. This control has continued since former Administrator Pruitt's departure. The agency has also provided additional training to those who prepare travel for senior officials.

OIG Response 13: We acknowledge that the agency determined and asserts that the \$123,942 represents valid costs. However, we disagree with the agency's determination. The agency has not provided support for its review of the 2017 costs.

Since its formal response, the agency has taken additional actions to redelegate the authority to the Controller and retroactively approve the other coach-class accommodations for all 2017 trips. We accept the agency's redelegation and retroactive approval as correcting the delegation and the Controller's retroactive approval authority issue. However, we disagree with the retroactive approval because the agency has not provided sufficient justification to support that valid security concerns existed for the periods in question, as documented in Chapter 4 of this report and our audit of the PSD noted in the *Prior Audit Reports* section (Report No. [18-P-0239](#)). Details are explained in this report's Chapter 4 and Appendix D, *OIG Responses 7 to 9*.

Although the agency's new policy requirement for trip expenditures over \$5,000 would increase the review by senior management, which could strengthen controls for the future, it does not resolve the excessive costs incurred in 2017 because the new policy was not issued until April 27, 2018.

Based on the discussions above, we consider Recommendation 1 to be unresolved with resolution efforts in progress.

RECOMMENDATION 2: *We recommend that the Deputy Administrator, for the period January 1, 2018, through his resignation in July 2018, evaluate and determine whether any costs related to the former Administrator's use of first/business class travel without sufficient justification and proper approval should be recovered and, if so, from which responsible official or officials, and direct recovery of the funds.*

- The agency agrees with the recommendation. The agency reviewed former Administrator's travel for the period January 1, 2018, through his resignation in July 2018. Travel reviewed had sufficient justification and proper approval.
- In addition, the former Administrator issued a memorandum requiring final approval over expenditures made by agency personnel over \$5,000 on his behalf to execute official duties by two of the three individuals: Deputy Administrator, Chief Financial Officer, or Chief of Staff. This control has continued since former Administrator Pruitt's departure. The agency has also provided additional training to those who prepare travel for senior officials.

OIG Response 14: We disagree with the agency's determination that the former Administrator's travel for the period January to July 2018 had sufficient justification and proper approval. The agency conducted a voucher review for the time period.

Since its formal response, the agency has taken additional actions to redelegate the authority to the Controller and retroactively approve the 2018 other than coach-class accommodations. However, we disagree with the retroactive approval because the agency has not provided sufficient justification to support that valid security concerns existed for the periods in question, as documented in Chapter 4 of this report and our report on the PSD noted in the *Prior Audit Reports* section (Report No. [18-P-0239](#)).

While the new approval requirement for trip expenditures over \$5,000 would increase the review by senior management and strengthen the controls for the future, the policy memorandum was issued on April 27, 2018; therefore, the new requirement would not have covered the costs incurred from January 1 to April 27, 2018.

Due to reasons stated in the paragraph above, we consider Recommendation 2 unresolved with resolution efforts in progress.

RECOMMENDATION 3: *We recommend that the Chief Financial Officer implement controls to verify the approving official has adequate authority prior to granting first/business class exceptions.*

- The agency disagrees with the recommendation as sufficient controls were established for first/business class trips. An approved justification, in accordance with Federal Travel Regulations, is required for first and business-class travel before an exception is granted. The agency followed these policies based on consultation with GSA and OGC.

OIG Response 15: We disagree that sufficient controls were established to verify that the approving official had adequate authority. As explained in the *First/Business-Class Exceptions Granted Without Sufficient Justification to Support Security Concern* section, the first/business-class exception for the former Administrator was approved by the Controller who, at the time, had not been delegated the authority for such approval.

Subsequent to the draft report response, the agency has taken steps to redelegate the approval authority to the Controller and retroactively approve all other than coach-class accommodations (first-class) for former Administrator Pruitt, the PSD and support staff that occurred during the fiscal years 2017 and 2018. Details are explained in the *Actions Taken* section under *First/Business-Class Exceptions Granted Without Sufficient Justification to Support Security Concern*. We consider Recommendation 3 to be completed.

RECOMMENDATION 4: *We recommend that the Chief Financial Officer implement controls agency-wide to verify that the use of other than coach-class travel is properly justified and documented prior to approval of the travel authorization.*

- The agency disagrees with this recommendation as sufficient controls are in place to ensure proper justification and approval for use of other than coach-class travel exist and are being followed.

OIG Response 16: We disagree that sufficient controls are in place. As discussed in the report, the first/business-class exception for the former Administrator was granted without adequate support for security exceptions.

We consider Recommendation 4 unresolved with resolution efforts in progress.

RECOMMENDATION 5: *We recommend that the Chief Financial Officer implement controls to verify contract fares are used unless they are properly justified and documented.*

- The agency disagrees with this recommendation. The agency's travel policy provides instructions for the use of non-contract carriers. As long as the selected fare is compliant with the exceptions for use of non-contract carriers as stated in the agency's travel policy and FTR, the traveler selects a reason for use of a non-contract carrier within the agency's travel system (via a selection option within Concur), along with justification, prior to approval.
- All travel accommodations prepared by the Travel Management Center (BCD) are booked in accordance with Federal Travel Regulations and the contract with Concur.

OIG Response 17: We disagree with the agency's statement "along with justification, prior to approval." As discussed in OIG Response 10, the Concur selection menu was used, but there was a lack of narrative justification. Also, the use of BCD does not relieve either the traveler's nor the agency's responsibility for complying with the FTR and EPA policy.

We consider Recommendation 5 unresolved with resolution efforts in progress.

RECOMMENDATION 6: *We recommend that the Chief Financial Officer Clarify EPA policy in Resource Management Directive System 2550B on the requirements for justifying and documenting carrier/flight/airfare selection when there are no contract fares.*

- The agency disagrees with this recommendation as RMDS 2550B (page 50 – under "Use of City Pair Program") discusses the requirement for agency employees to use a contract carrier while traveling on official business unless one of the exceptions listed in the Federal Travel Regulations §301-10.17 is met.
- As long as the selected fare is compliant with the exceptions for use of non-contract carriers as stated in the agency's travel policy and FTR, the traveler selects a reason

for use of a non-contract carrier within the agency's travel system (via a selection within Concur), along with justification, prior to approval.

- All travel accommodations prepared by the Travel Management Center (BCD) are booked in accordance with Federal Travel Regulations.

OIG Response 18: We disagree with the agency's comments. The referenced RMDS section only stated that EPA employees must use a contract carrier when one is available unless a specific FTR §301-10.107 exception applies. It does not address how the exception is to be documented and approved. For example, it does not discuss the use of the selection nor the additional written narrative for justification in Concur. Also, the use of BCD does not relieve either the traveler's nor agency's responsibility for complying with the FTR and EPA policy.

We consider Recommendation 6 unresolved with resolution efforts in progress.

RECOMMENDATION 7: *We recommend that the Chief of Staff implement controls within the Office of the Administrator to include adequate justification to support the use of first/business-class travel and for carrier/flight/airfare selection when there are no contract fares.*

- The agency disagrees with this recommendation as sufficient controls are in place to ensure proper justification and approval for use of other than coach-class travel exist and for carrier/flight/airfare selection when there are no contract fares are being followed. The former Administrator issued a memorandum requiring final approval over expenditures made by agency personnel over \$5,000 on his behalf to execute official duties by two of the three individuals: Deputy Administrator, Chief Financial Officer, or Chief of Staff. This control has continued since former Administrator Pruitt's departure. No separate or additional controls are required for the Office of the Administrator.

OIG Response 19: We disagree with the agency that sufficient controls are in place. Between May and December 2017, the former Administrator traveled mostly first class. The travel authorizations and vouchers did not provide documentation to justify that the carrier and flights selected were the lowest cost available or the most advantageous to the government.

The agency's new approval requirement for trip expenditures over \$5,000 would not resolve Recommendation 7. Since the agency continues to rely on BCD for FTR compliance and does not believe that additional controls are needed to verify that adequate justification to support the use of first/business-class travel and carrier/flight/airfare selection, such documentation is unlikely to be reviewed by senior management. Therefore, additional layers of review would not address the recommendations.

We consider Recommendation 7 unresolved with resolution efforts in progress.

RECOMMENDATION 8: *We recommend that the Chief Financial Officer implement controls to verify appropriate approval and adequate justification for lodging over 150% of per diem and minimize after-the-fact approvals.*

- The agency agrees with the recommendation and OCFO is implementing controls in Concur to strengthen adequate justification and approval for lodging over 150% of per diem. Additionally, the former Administrator issued a memorandum requiring final approval over expenditures made by agency personnel over \$5,000 on his behalf to execute official duties by two of the three individuals: Deputy Administrator, Chief Financial Officer, or Chief of Staff. This control has continued since former Administrator Pruitt's departure.

Corrective Action Completion Date: Second quarter 2019

OIG Response 20: Subsequent to its formal response, the agency informed us that it has updated Concur to include a flag requiring additional justification be included for any voucher that exceeds lodging over 150 percent of per diem. We accept the agency's corrective action and consider Recommendation 8 completed.

RECOMMENDATION 9: *We recommend that the Chief of Staff implement controls within the Office of the Administrator to confirm that adequate cost comparisons are provided before approving travel authorizations where an alternative travel method is used.*

- The agency disagrees with this recommendation as sufficient controls are in place to ensure proper justification and approval for use of other than coach-class travel exist and are being followed. Additionally, the former Administrator issued a memorandum requiring final approval over expenditures made by agency personnel over \$5,000 on his behalf to execute official duties by two of the three individuals: Deputy Administrator, Chief Financial Officer, or Chief of Staff. This control has continued since former Administrator Pruitt's departure.

OIG Response 21: The agency's comment is nonresponsive to the OIG's recommendation. The agency addressed the use of other than coach-class travel but our recommendation is related to the former Administrator's trips with stops in Tulsa for personal reasons.

The agency's new approval requirement for trip expenditures over \$5,000 is not sufficient to resolve Recommendation 9. While additional layers of senior management review could help to strengthen the overall controls, it is unclear as to whether they would address the cost comparison issue if the agency accepts that "paying his own way" to the personal convenience travel location is sufficient to justify the choosing of an indirect travel route. In addition, the agency does not enforce its policy requirement for uploading to Concur the cost comparison supporting documents—such as the printed copy of the flights and prices for the direct route.

We consider Recommendation 9 unresolved with resolution efforts in progress.

RECOMMENDATION 10: *We recommend that the Assistant Administrator for International and Tribal Affairs clarify the requirement and importance of trip reports for all international travel.*

- The agency agrees with the recommendation as The Office of International and Tribal Affairs will be releasing a new version of Fast International Approval of Travel (FIAT) system. This updated database sends travelers automated reminders of the requirement to complete a trip report in FIAT within 15 days of returning from international travel.

Corrective Action Completion Date: Second Quarter FY 2019

OIG Response 22: The agency concurred with our recommendation and provided an acceptable planned corrective action and completion date. Since its report response, the agency has revised its corrective action completion date to the fourth quarter of fiscal year 2019. We consider Recommendation 10 resolved with corrective action pending.

RECOMMENDATION 11: *We recommend that the Assistant Administrator for International and Tribal Affairs implement controls to verify that international trip reports are accurate and complete.*

- The agency agrees with the recommendation as The Office of International and Tribal Affairs will be releasing a new version of Fast International Approval of Travel (FIAT) system. The Office of International and Tribal Affairs has begun using the new version of FIAT, with the goal of releasing the system agency-wide in the early second quarter of FY 2019. This updated database sends travelers automated reminders of the requirement to complete a trip report in FIAT within 15 days of returning from international travel. The system also automatically fills in the dates of the trip based on the information that was entered in the International Travel Plan. To help National Program Offices and Regions ensure that their travelers' ITPs are complete and accurate, the trip report section of the new FIAT and the system's users guide will feature guidance for travelers regarding the type of information that a trip report should contain (i.e., a description of all major activities/meetings during the trip, the names of any foreign government officials with whom the traveler met, and any follow-up activities required of the EPA). The new system also will allow each NPM and regional International Travel Coordinator to view which ITPs do not contain trip reports.

Corrective Action Completion Date: Second Quarter FY 2019

OIG Response 23: The agency concurred with our recommendation and provided an acceptable planned corrective action and completion date. Since its report response, the agency has revised its corrective action completion date to the fourth quarter of fiscal year 2019. We consider Recommendation 11 resolved with corrective action pending.

RECOMMENDATION 12: *We recommend that the Chief Financial Officer implement controls to verify that the use of first/business-class travel complies with the requirements of the Federal Travel Regulation and EPA policy in Resource Management Directive System 2550B prior to approval of the travel authorization.*

- The agency disagrees with the recommendation as sufficient controls are in place through agency travel policy and related agreements requiring compliance with Federal Travel Regulations, that are agreed to by contractor provided travel related services.

OIG Response 24: We disagree that the agency has adequate controls in place. As explained in the report, we found that the use of business-class travel by the former Administrator's staff and PSD agents was not always approved in accordance with the FTR and/or EPA travel policy. We found that several PSD agents and the former Administrator's staff received approval for business-class travel without a formal request, as required by EPA policy. Others, who submitted a formal request, received approval without the required analysis.

We consider Recommendation 12 unresolved with resolution efforts in progress.

RECOMMENDATION 13: *We recommend that the Chief Financial Officer provide guidance on documentation needed to support approval for first/business-class travel.*

- The agency agrees with the recommendation and provided training to those who prepare travel for senior officials.

Corrective Action Completion Date: June 2018

OIG Response 25: The corrective action did not completely address the recommendation. Training was provided, but there is no guidance for what documentation is required to support approval of first/business-class travel.

We consider Recommendation 13 unresolved with resolution efforts in progress.

RECOMMENDATION 14: *We recommend that the Chief Financial Officer identify and review all-business-class travel claimed for the staff and Protective Service Detail agents who accompanied the former Administrator on travel from March 2017 through his resignation in July 2018, for proper approval. Where policy was not followed, recover any excess costs claimed for the use of business class.*

- The agency disagrees with the recommendation as proper approvals were provided to agency staff and Protective Service Detail agents accompanying the former Administrator on travel. As sufficient approval authority exists, there is no need to recover any costs.

OIG Response 26: The agency's comment is nonresponsive to our recommendation, which relates to the improper approval of business-class flights. Specifically, a sample of the travel vouchers revealed that several PSD agents and the former Administrator's staff used business-class flights for international trips without a formal request for such accommodation as required by EPA policy. Others, who submitted a formal request, received approval based solely on the fact that the total flight time exceeded 14 hours, and did not include the required analysis to address the constructive costs and mission urgency, as required by EPA policy and the FTR.

We consider Recommendation 14 unresolved with resolution efforts in progress.

CONTACT INFORMATION

If you have any questions regarding this response, please contact Bob Trent, Agency Audit Follow Up Coordinator on (202) 566-3983, or via email trent.bobbie@epa.gov or Michael Benton, OA's Audit Follow Up Coordinator on (202) 564-2860, or via email benton.michael@epa.gov.

cc:

Jane Nishida
Helena Wooden-Aguilar
Jeanne Conklin
Kevin Christensen
John Trefry
Richard Gray
Aileen Atcherson
Greg Luebbering
Sherri' Anthony
Vickie Spencer
Khary Nelson
Nikki Wood
Angela Bennett
Lenore Connell
Gwendolyn Spriggs
Michael Benton
Bob Trent
Lela Wong




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

FEB 11 2019

OFFICE OF
GENERAL COUNSEL

SUBJECT: Authority to Grant First Class Exceptions under Delegations 1-17A and 1-17B

FROM: Angelia Talbert-Duarte 
Acting Associate General Counsel
Civil Rights and Finance Law Office

TO: Charles Sheehan
Acting Inspector General

This is in response to your request for a legal opinion on whether the Acting Controller had the delegated authority to grant exceptions for the Administrator's first class travel. As discussed below, the Acting Controller did have the authority to grant the first class exceptions.

Both Delegations 1-17A (for domestic travel) and 1-17B (for international travel) specifically state in section 2.b. that the Chief Financial Officer and the Deputy Chief Financial Officer have the authority to approve business class accommodations for the Administrator and first class accommodations for agency employees (which includes the Administrator). Section 3.e. in Delegation 1-17B also states that the Administrator must obtain approval from the Chief Financial Officer, Deputy Chief Financial Officer, or designee in order to travel in business class. Both delegations also provide (Delegation 1-17A, section 4.e and Delegation 1-17B, section 4.h.) that the Chief Financial Officer and the Deputy Chief Financial Officer may redelegate the authority to approve first class travel to the Director of the Office of the Controller (the Controller).

On March 1, 2012, the authority to approve first class travel was redelegated to the Director of the Office of Financial Management. In March 2016, the Office of Financial Management became the Office of the Controller, under an office reorganization, and on April 30, 2018 the authority was redelegated to the Controller, Office of the Controller. Both redelegations contain a limitation that restricts the approval authority to agency employees at the office director level or below, which would not include the Administrator.

The two first class travel exceptions at issue were granted on June 2, 2017 and June 5, 2017 by the Acting Controller. When the exceptions were granted, the Acting Chief Financial Officer and the Acting Controller were both unaware of the limitation in the redelegations. Not aware of this limitation, both the Acting Chief Financial Officer and the Acting Controller believed that the Acting Controller had been redelegated the authority to approve the Administrator's first class travel. Further, on May 3, 2017 an oral request to grant an exception, based on the Protective

Security Detail's (PSD) threat assessment, was presented to the Acting Controller. The Acting Controller met with the Acting CFO on May 11, 2017 and discussed that they would rely on the security professionals to determine that there was a threat. At that meeting, the Acting CFO agreed that the office would grant an exception for first class travel based on PSD's assessment.

While EPA's policy is to delegate authorities in writing, one court has found that if the supervisor is aware that an authority is being carried out by a subordinate and the supervisor does not object, the actions of that subordinate are valid pursuant to an "implied delegation." See *Parrish v. Shinseki*, 24 Vet. App. 391 (2011). Here, the Acting CFO was aware that the Acting Controller was approving first class travel for the Administrator. The Acting CFO was under the impression that the authority had been redelegated to that position, and further, did not object to the Acting Controller's role of approving first class travel. In fact, the Acting CFO expressed his approval of the determination when he met with the Acting CFO on May 11. Because the Acting Controller was operating pursuant to this implied redelegation, the exceptions for the Administrator's travel were valid.

Please contact me on 202-564-8158 or Elise Packard, Acting Deputy General Counsel on 202-564-7729 if you have any further questions.

cc: Holly Greaves
Kevin Christensen
John Trefry
Bobbie Trent



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAR 5 - 2019

OFFICE OF THE
CHIEF FINANCIAL OFFICER

MEMORANDUM

SUBJECT: Redlegation of Authority to Approve Other than Coach-Class (First-Class) Accommodations for Official Travel

FROM: Holly W. Greaves, Chief Financial Officer
Office of the Chief Financial Officer *Holly W. Greaves*

THRU: *[Signature]* David A. Bloom, Deputy Chief Financial Officer
Office of the Chief Financial Officer

TO: Jeanne Conklin, Controller
Office of the Controller

PURPOSE

This memorandum supersedes the memo dated April 30, 2018 and redelegates the authority to approve other than coach-class (first-class) accommodations for official travel.

BACKGROUND

Delegation 1-17-A, Domestic Travel, dated June 28, 2018, Section 4.e., states the Chief Financial Officer and the Deputy Chief Financial Officer may redelegate to the Controller, in the Office of the Controller, the authority to approve other than coach-class (first-class) accommodations, including after-the-fact or post-travel waivers, for agency employees under the criteria provided in the Federal Travel Regulation and the agency travel policy. *Further redelegation is not permitted.*

Delegation 1-17-B, International (Foreign and Invitational-Foreign) Travel, dated June 28, 2018, Section 4.h., states the Chief Financial Officer and the Deputy Chief Financial Officer may redelegate to the position of the Controller, in the Office of the Controller, the authority to approve other than coach-class (first-class) accommodations, for agency employees under the criteria provided in the FTR and the agency travel policy. *Further redelegation is not permitted.*

EPA's travel delegations are available at <http://intranet.epa.gov/ohr/rmpolicy/ads/dm/toe.htm>.

REDELEGATIONS

1. Domestic Travel – Effective immediately, the CFO and DCFO redelegate to the Controller the authority to approve other than coach-class (first-class) accommodations, including after-the-fact or post-travel waivers, for agency employees under the criteria provided in the FTR and agency travel policy. *Further redelegation is not permitted*
2. International Travel - Effective immediately, the CFO and DCFO redelegate to the Controller the authority to approve other than coach-class (first-class) accommodations, including after-the-fact or post-travel waivers, for agency employees under the criteria provided in the FTR and agency travel policy. *Further redelegation is not permitted.*

Any official who redelegates an authority retains the right to exercise or withdraw authority. Redelegated authority may be exercised by any official in the chain of command to the official to whom it has been specifically redelegated.

LIMITATIONS

As a matter of agency policy and ethical considerations, the Controller must not authorize or approve his or her own domestic or international travel. The CFO, DCFO or designee will approve all travel for the Controller.

cc: OCFO Senior Managers
Senior Resource Officials



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAR 7 8 2019

OFFICE OF THE
CHIEF FINANCIAL OFFICER

MEMORANDUM

SUBJECT: Retroactive Approval of Other Than Coach-Class Accommodations

FROM: Jeanne Conklin, Controller
Office of the Controller

TO: Khary Nelson, Travel Chief
Cincinnati Finance Center

This memorandum serves as an retroactive approval for the prior Administrator, Scott Pruitt and his Protective Services Detail, support staff and, for all other than Coach-Class accommodations (First-Class) that occurred during the Fiscal Years 2017 and 2018, due to security reasons. The attachment is a listing of all First-Class accommodations for the stated timeframe requiring retroactive approval.

Delegation of Authority 1-17A Domestic Travel and Delegation of Authority 1-17B International (Foreign and Invitational) Travel both delegate the authority to approve First-Class accommodations for all agency employees to the Chief Financial Officer and Deputy Chief Financial Officer, which may be redelegated to the Controller, Office of the Controller.

During a review of Other Than Coach-Class Accommodations associated with the prior Administrator, his protective detail and staff, it was discovered that the Controller did not have redelegated authority to approve Other Than Coach-Class Accommodations (First-Class), for the Administrator. As a result of this review, the authority to approve First-Class accommodations needed to be redelegated to the Controller, and all First-Class accommodations during the Fiscal Years 2017 and 2018 for the prior Administrator, his protective detail and staff, needed to be retroactively approved.

Per the memorandum, "Redelegation of Authority to Approve Other than Coach-Class (First-Class) Accommodations for Official Travel", dated March 5, 2019, the Chief Financial Officer redelegated the authority to approve first-class accommodations to the Controller, the Office of the Controller. Per Federal Travel Regulations §301-10.123 and §301-10.124, approval of "Other Than Coach-Class" (First of Business-Class) is allowable when one or more of the following are met:

- No Coach-Class Accommodation Reasonably Available
- Medical Disability or Special Need (with documentation)
- Mission Critical
- Security Reasons
 - o Use of coach-class accommodations would endanger your life or Government property;

- o You are an agent on protective detail and you are accompanying an individual authorized to use other than coach-class accommodations; or
- o You are a courier or control officer accompanying controlled pouches or packages.

Agency requirements for the use of Other Than Coach-Class Accommodations are also discussed in Resource Management Directives System 2550B – Official Travel, located at <http://intratel.epa.gov/oc/policies/direct/2550/2550b-official-travel.pdf>. A copy of this memorandum should be attached to the travel vouchers. If you have any questions or need assistance, please contact Aileen Atcherson, Acting Director, Policy, Training & Accountability Division at (202) 564-2283.

Attachment

cc: OCTO-OC-MGRS
Helena Wooden-Aguilar
Henry Barnett



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

March 22, 2019

THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Amendments to Delegations 1-17A and 1-17B Relating to Other than Coach-Class Travel

FROM: Andrew R. Wheeler

A handwritten signature in black ink, appearing to read "Andrew R. Wheeler", is written over the name.

TO: Holly W. Greaves, Chief Financial Officer
Office of the Chief Financial Officer

Donna J. Vizian, Principal Deputy Assistant Administrator
Office of Mission Support

I hereby approve the following amendments to Delegations 1-17A, 4.e and 4.i and 1-17B, 4.h and 4.k:

4. REDELEGATION OF AUTHORITY.

1-17A

4.e. The Chief Financial Officer and Deputy Chief Financial Officer redelegate to the Director, Office of the Controller, the authority to approve other than coach-class, first-class, accommodations, including after-the-fact or post-travel waivers, for the agency under the criteria provided in the federal travel regulation and agency travel policy. Further redelegation is not permitted.

4.i. Any official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command to the official to whom it has been specifically redelegated.

1-17B

4.h. The Chief Financial Officer and Deputy Chief Financial Officer redelegate to the position of Director, Office of the Controller, the authority to approve other than coach-class, first-class, accommodations for the agency under the criteria provided in the federal travel regulation and agency travel policy. Further redelegation is not permitted.

4.k. Any official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command to the official to whom it has been specifically redelegated.

Distribution

The Administrator
Associate Deputy Administrator and Chief of Operations
Chief of Staff
Deputy Chief of Staff
Chief Financial Officer
Assistant Administrator for Enforcement and Compliance Assurance
Assistant Administrator for International and Tribal Affairs
General Counsel
Agency Follow-Up Coordinator
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for Public Affairs
Deputy Chief Financial Officer
Associate Chief Financial Officer
Controller, Office of the Controller, Office of the Chief Financial Officer
Deputy Controller, Office of the Controller, Office of the Chief Financial Officer
Principal Deputy Assistant Administrator for Enforcement and Compliance Assurance
Deputy Assistant Administrator for Enforcement and Compliance Assurance
Principal Deputy Assistant Administrator for International and Tribal Affairs
Principal Deputy General Counsel
Associate General Counsel, General Law Office, Office of General Counsel
Director, Office of Criminal Enforcement, Forensics and Training, Office of Enforcement
and Compliance Assurance
Director, Office of Continuous Improvement, Office of the Administrator
Audit Follow-Up Coordinator, Office of the Administrator
Audit Follow-Up Coordinator, Office of the Chief Financial Officer
Audit Follow-Up Coordinator, Office of Enforcement and Compliance Assurance
Audit Follow-Up Coordinator, Office of International and Tribal Affairs
Audit Follow-Up Coordinator, Office of General Counsel



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

*Compliance with the law
Operating efficiently and effectively*

EPA's Use of Administratively Determined Positions Is Consistent with Its Authority Under the Safe Drinking Water Act

Report No. 19-P-0279

August 21, 2019



Report Contributors:

Angela Bennett
Jean Bloom
Darren Schorer
Claire McWilliams
Wendy Swan
John Trefry

Abbreviations

AD	Administratively Determined
EPA	U.S. Environmental Protection Agency
GS	General Schedule
OIG	Office of Inspector General
OPM	U.S. Office of Personnel Management
SDWA	Safe Drinking Water Act
SES	Senior Executive Service
U.S.C.	United States Code

Cover Image: Between January 2009 and August 2018, various EPA Administrators have used the authority under the SDWA to appoint 119 personnel to administratively determined positions without regard to the civil service laws. (EPA OIG graphic)

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

EPA Inspector General Hotline

1200 Pennsylvania Avenue, NW (2431T)
Washington, DC 20460
(888) 546-8740
(202) 566-2599 (fax)
OIG_Hotline@epa.gov

Learn more about our [OIG Hotline](#).

EPA Office of Inspector General

1200 Pennsylvania Avenue, NW (2410T)
Washington, DC 20460
(202) 566-2391
www.epa.gov/oig

Subscribe to our [Email Updates](#)
Follow us on Twitter [@EPAoig](#)
Send us your [Project Suggestions](#)



At a Glance

Why We Did This Project

The U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) conducted this audit to determine how the agency used its authority under the Safe Drinking Water Act to fill administratively determined (AD) positions.

Under the Safe Drinking Water Act, the Administrator has the authority to appoint personnel to fill not more than 30 scientific, engineering, professional, legal and administrative positions. The agency refers to these positions as *AD positions*.

Our audit focused on appointments made between January 2009 and August 2018. Six different Administrators or acting Administrators served during this period, beginning with Lisa Jackson and ending with Andrew Wheeler.

This report addresses the following:

- *Compliance with the law.*
- *Operating efficiently and effectively.*

Address inquiries to our public affairs office at (202) 566-2391 or OIG_WEBCOMMENTS@epa.oig.

List of [OIG reports](#).

EPA's Use of Administratively Determined Positions Is Consistent with Its Authority Under the Safe Drinking Water Act

What We Found

Between January 2009 and August 2018, the agency used its authority under the Safe Drinking Water Act to make 119 appointments to AD positions. The appointments varied by Administrator in terms of location, number and classification. Our analysis of the 119 appointments showed that 63 (53 percent) were made to positions in the Administrator's office, 26 (22 percent) were made to positions in program offices, and 30 (25 percent) were made to positions in regional offices. Former Administrator Scott Pruitt made the most appointments to AD positions (54), followed by former Administrator Jackson (36). The appointments were spread across four position classifications allowed under the Safe Drinking Water Act. Specifically, there were 102 appointments made to professional positions, five to legal positions, one to a scientific position, and 11 to administrative positions.

Since 2009, the EPA has made 119 appointments to AD positions consistent with the authority provided by the Safe Drinking Water Act.

The appointments were primarily made for new employees; however, we identified two existing employees who were converted to AD positions. We also identified a shift that began in 2017 to use AD positions to facilitate the hiring of political appointees. In this regard, the agency used its Safe Drinking Water Act authority to expedite the hiring of individuals who, within a matter of months, were converted to political appointments (i.e., noncareer Senior Executive Service or Schedule C positions).

Because the act does not specify how AD appointments are to be used and does not require that appointees work on drinking-water related issues, the agency's use is consistent with the authority provided by the statute. As a result, we make no recommendations.

Agency Response and OIG Comments

The report contained no recommendations; therefore, the agency was not required to respond. Nonetheless, the agency responded on August 12, 2019. The response did not address the factual accuracy of the report. As such, the OIG stands by the factual accuracy of the report and its conclusion that the agency's use of AD positions is consistent with the authority provided by the Safe Drinking Water Act.



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

OFFICE OF
INSPECTOR GENERAL

August 21, 2019

MEMORANDUM

SUBJECT: EPA's Use of Administratively Determined Positions Is Consistent with
Its Authority Under the Safe Drinking Water Act
Report No. 19-P-0279

FROM: Charles J. Sheehan, Deputy Inspector General

A handwritten signature in blue ink that reads "Charles J. Sheehan".

TO: Donna Vizian, Principal Deputy Assistant Administrator
Office of Mission Support

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY18-0085. This report addresses the EPA's use of authority under the Safe Drinking Water Act to make AD appointments. This report represents the opinion of the OIG and does not necessarily represent the EPA's position.

You are not required to respond to this report because this report contains no recommendations. However, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

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

Table of Contents

Purpose	1
Background	1
Responsible Offices	2
Prior Report	2
Scope and Methodology	3
Results	3
Use of AD Positions Varied by Administrator	3
AD Positions Converted to Political Appointments	5
Conclusion	6
Agency Comments and OIG Evaluation	7

Appendices

A Agency Response to Draft Report	8
B Distribution	16

Purpose

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) conducted an audit of the EPA's use of administratively determined (AD) positions. Our objective was to determine how the agency used its authority under the Safe Drinking Water Act (SDWA) to fill up to 30 AD positions. This audit was initiated based, in part, on a congressional request.

Background

The EPA Administrator has authority under the SDWA to appoint personnel to fill not more than 30 scientific, engineering, professional, legal and administrative positions without regard to the civil service laws. The agency refers to these positions as *AD positions*.

A provision of the SDWA—42 U.S.C. § 300j-10, which is titled *Appointment of scientific, etc., personnel by Administrator of Environmental Protection Agency for implementation of responsibilities; compensation*—provides the following description of the Administrator's authority related to AD positions:

To the extent that the Administrator of the Environmental Protection Agency deems such action necessary to the discharge of his functions under title XIV of the Public Health Service Act [42 U.S.C. §§ 300f et seq.] (relating to safe drinking water) and under other provisions of law, he may appoint personnel to fill not more than thirty scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of title 5.¹

The EPA has various appointment authorities besides those granted under the SDWA. Depending on the requirements of the position, the agency can convert employees in AD positions to other types of appointments, including:

- *Noncareer Senior Executive Service (SES)*. The number of these appointments are limited by law and are excepted from competitive service.
- *Schedule C*. The appointments to these positions are excepted from competitive service because they have policy-determining (i.e., policymaking) responsibilities or require the appointees to serve in close

¹ GS stands for *General Schedule*.

and confidential working relationships with the head of an agency or other key appointed officials.

- *Schedule A.* These appointments include positions excepted from competitive service that are not of a confidential or policy-determining character. This appointing authority is used for special jobs or situations for which it is impractical to use standard qualification requirements and to rate applicants using traditional competitive procedures.
- *Career Conditional.* These appointments are permanent positions in the competitive service for employees with less than 3 years of federal service.

Schedule C and noncareer SES employees are considered *political appointees* because they are excepted from the competitive service due to their confidential or policymaking nature within an executive agency. All Schedule C and noncareer SES appointments, including those converted from AD positions, must undergo a U.S. Office of Personnel Management (OPM) approval process.

Responsible Offices

The EPA's Chief of Staff and the White House Liaison, both within the Office of the Administrator, are responsible for recruiting and recommending individuals for AD positions, with input from the Administrator.

Within the Office of Mission Support, the Office of Human Resources provides agencywide policy development, strategic planning and direction for the EPA's human resources program, including executive resources management.

Prior Report

EPA OIG Report No. 18-N-0154, *Management Alert: Salary Increases for Certain Administratively Determined Positions*, issued April 16, 2018, provided information pertaining to six employees who occupied AD positions. Specifically, the report outlined certain personnel actions, including who requested and signed actions related to these employees, position conversions and salary increases. The OIG found that the authority under the SDWA was used to provide significant pay raises for individuals in AD positions. We identified three employees in AD positions who were converted to Schedule C positions and then back to their original AD positions. Two of these employees received salary increases with the Schedule C conversion. All three employees received significant salary increases, ranging from 25.1 percent to 72.3 percent, when converted back to their original AD positions. As a result of the audit, the agency later reduced the salaries of the two employees who received increases with their Schedule C conversions back to their original AD salaries. The OIG made no recommendations.

Scope and Methodology

We conducted our audit from January 2018 to August 2019 in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions presented in this report.

To determine how the agency used its authority to fill AD positions, we interviewed staff from the Office of Human Resources, reviewed the provisions of the SDWA, obtained a list of AD positions, and reviewed personnel files. We also compared how different EPA Administrators used AD positions between January 2009 and August 2018.

EPA Administrations

The scope of our audit spanned six EPA Administrators:

Administrator	Tenure
Andrew Wheeler	7/7/18–present* (acting until 2/28/19)
Scott Pruitt	2/17/17–7/6/18
Catherine McCabe (acting)	1/20/17–2/17/17
Gina McCarthy	7/19/13–1/20/17
Bob Perciasepe (acting)	2/15/13–7/18/13
Lisa Jackson	1/26/09–2/14/13

* As of publication of report.

Results

Use of AD Positions Varied by Administrator

The EPA's use of its authority under the SDWA to fill AD positions varied by Administrator and included AD appointments to positions located in the Administrator's office, program offices and regional offices. The Administrators primarily hired new employees to fill AD positions; however, we identified two existing employees who were also converted to AD positions.

While the SDWA identifies the maximum number of AD positions allowed and provides examples of position classifications, it does not provide specific details regarding how the positions are to be used. We found no requirement that employees hired to AD positions work on issues related to the SDWA. In addition, the congressional record does not clearly identify whether the AD positions are intended to be drinking-water related.

As shown in Table 1, the six EPA Administrators within our audit scope appointed 119 individuals to AD positions. Of the 119 appointments, 63 (53 percent) were made to positions in the Administrator's office, 26 (22 percent) were made to the program offices, and 30 (25 percent) were made to positions in various regional offices. Of the six agency Administrators, former Administrator Pruitt made the most appointments to AD positions (54), followed by former Administrator Jackson (36).

Table 1: Number of appointments to AD positions between January 2009 and August 2018

Office	Administrator ^a						Total
	Jackson	Perciasese	McCarthy	McCabe	Pruitt	Wheeler	
Administrator	10	1	12	1	36	1	61
<i>Program offices</i>							
Air and Radiation		1	2		3		6
Chief Financial Officer	1						1
Chemical Safety and Pollution Prevention	1				1		2
Enforcement and Compliance Assurance	1						1
International and Tribal Affairs	4		1				5
Solid Waste and Emergency Response ^b	1						1
Water	1		1		3		5
Research and Development			1		1		2
Environmental Information ^c			1				1
General Counsel	1		2		1		4
<i>Program office subtotal</i>	10	1	8	0	9	0	28
<i>Regional offices</i>							
Region 1	2				1		3
Region 2	3				1		4
Region 3	2				1		3
Region 4	1		1		2		4
Region 5	2				1		3
Region 6	1	1			1		3
Region 7	1				1		2
Region 8	2		1		1		4
Region 9	1					1	2
Region 10	1		1				2
<i>Regional office subtotal</i>	16	1	3		9	1	30
Total AD appointments	36	3	23	1	54	2	119

Source: OIG-generated based on personnel records from the OPM's electronic Office Personnel Folder.

^a Administrators are listed in chronological order.

^b Effective December 15, 2015, the name of the EPA's Office of Solid Waste and Emergency Response was changed to the Office of Land and Emergency Management.

^c Effective November 26, 2018, the EPA combined its Office of Environmental Information with the Office of Administration and Resources Management to become the Office of Mission Support.

As shown in Table 2, the 119 appointments were spread across four classifications allowed in the SDWA: professional, legal, scientific and administrative. Based on information obtained from personnel records, we classified 102 (86 percent) of the total appointments as professional positions. The

remaining 17 appointments were classified as either legal, scientific or administrative positions.²

Table 2: AD position classifications between January 2009 and August 2018

Administrator ^a	Professional	Legal	Scientific	Administrative	Total
Jackson	32	1		3	36
Perciasepe	3				3
McCarthy	18	2		3	23
McCabe				1	1
Pruitt	47	2	1	4	54
Wheeler	2				2
Total	102	5	1	11	119
Percent of total	86%	4%	1%	9%	100%

Source: OIG-generated based on data from personnel records from the OPM's electronic Office Personnel Folder.

^a Administrators are listed in chronological order.

AD Positions Converted to Political Appointments

We identified a shift that began in 2017 to use AD positions to facilitate the hiring of political appointees. In this regard, the agency used AD positions to enable individuals who were intended for political appointments to begin work sooner. As mentioned in the “Background” section, Schedule C and noncareer SES appointments must undergo an OPM approval process, which means it takes longer to hire political appointees than AD appointees. By initially appointing intended political employees to AD positions, the agency enables these individuals to begin work prior to and during the OPM approval process. Upon approval, the AD appointees are then converted to their political appointments.

This approach was used from 2017 through August 2018 by two EPA Administrators to appoint 24 people to AD positions that were later converted—often within months—to political appointments (i.e., noncareer SES or Schedule C). As shown in Table 3 and Figure 1, between 2009 and 2016 only 11 AD appointees were converted to other positions, and not all of the positions were political.

Furthermore, our analysis showed that the one conversion made under Administrator Wheeler as of August 2018 occurred 33 days after the person’s being appointed to an AD position. For the 23 conversions made under former Administrator Pruitt, the average number of days was 58 days. Conversions made by the other Administrators ranged on average from 363 days to 770 days.

² The OIG’s position classification includes some auditor judgment, especially for the “administrative” category. The auditor based the “administrative” designation on education, experience and pay. For example, if the individual lacked experience, was a recent college graduate, or had no college degree and was at a GS-7 or GS-9 pay level, the individual was classified as “administrative.”

Table 3: AD position activity between January 2009 and August 2018

Administrator ^a	Total number of AD appointments	Conversions					Average number of days to conversion	Resigned, retired or terminated
		Noncareer SES	Schedule C	Schedule A ^b	Career conditional ^b	Total		
Jackson	36				1	1	363	11
Perciasepe	3					0		5
McCarthy	23	2	5	2	1	10	770	^c 35
McCabe	1					0		
Pruitt	54	6	17			23	58	10
Wheeler	2		1			1	33	7
Total	119	8	23	2	2	35		68

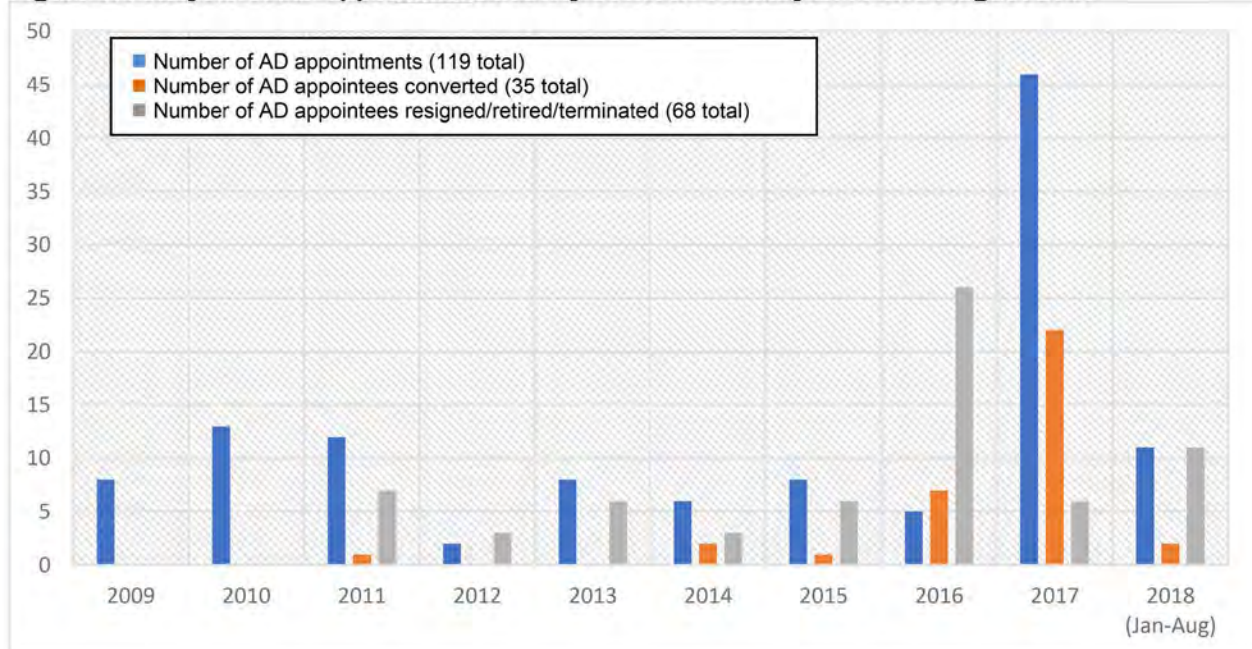
Source: OIG-generated based on information provided by the EPA Office of Human Resources' Executive Resources Division.

^a Administrators are listed in chronological order.

^b Not considered political appointments.

^c McCarthy's Chief of Staff believed that all employees in AD positions should leave when agency administrations changed, and most employees appointed by McCarthy—including those remaining from Jackson—did leave when McCarthy resigned.

Figure 1: Analysis of AD appointment activity between January 2009 and August 2018



Source: OIG-generated based on information provided by the EPA Office of Human Resources' Executive Resources Division.

Conclusion

Since January 2009, EPA Administrators have used their authority under the SDWA to make a variety of appointments to AD positions, including new hires and existing employees. Appointments varied in terms of type (professional,

legal, scientific and administrative) and location (Administrator's office, program offices and regional offices). Beginning in 2017, EPA Administrators used their authority under the SDWA to expedite the hiring of employees intended for political appointments. The act does not specify how appointments are to be used and does not require that appointees work on drinking-water related issues. Therefore, the agency's use of AD positions is consistent with the authority provided by the statute. As a result, we make no recommendations.

Agency Comments and OIG Evaluation

The report contained no recommendations; therefore, the agency was not required to respond. Nonetheless, the agency responded on August 12, 2019 (Appendix A). The response did not address the factual accuracy of the report. As such, the OIG stands by the factual accuracy of the report and its conclusion that the agency's use of AD positions is consistent with the authority provided by the SDWA.

Agency Response to Draft Report




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

THE ADMINISTRATOR

AUG 12 2019

MEMORANDUM

SUBJECT: Agency Response on the OIG Draft Report, *"EPA's Use of Administratively Determined Positions Is Consistent with Its Authority Under the Safe Drinking Water Act,"* Project No. OA-FY18-0085, dated August 1, 2019

FROM: Ryan Jackson, Chief of Staff 

TO: Charles Sheehan, Acting Inspector General

EPA Administrators have exercised their authority under the Safe Drinking Water Act (SDWA) to hire agency personnel in administratively determined (AD) positions since the authority originated in 1977. The EPA maintains a written policy which has existed since at least 2010 describing the process for hiring AD employees, their responsibilities, and employment rights. The OIG's conclusion that beginning in 2017, EPA Administrators used their authority under the SDWA to expedite the hiring of employees intended for political appointments is misleading. The appropriate inquiry is whether an EPA Administrator has ever used their SDWA AD hiring authority to hire a career employee. The answer to that inquiry is no. This audit covers January 2009 to August 2018. The EPA has no evidence based on the records for that time period, and those records the EPA has access to dating back to 2001, that SDWA AD authority was ever used to hire a career employee.

The audit includes a discussion of the OIG Report No. 18-N-0154 Management Alert. The draft report references 25.1% and 72.3% salary raises, yet it does not address whether there were interim raises nor does it discuss the progression of the salary history as the personnel became responsible for new and additional responsibilities nor does it compare the referenced salaries of the individuals to the salaries of their peers.

Finally, the audit includes a discussion and contains a table addressing what the OIG refers to as conversions. Changing an employee's type of appointment has nothing to do with the SDWA. What the audit refers to as a "conversion" is actually a move to a different appointment. Those moves often require an OPM approval process for noncareer/Schedule C political appointments or the delegated examination process for career-conditional appointments. "Conversion" is simply used as a functional processing term and is an indication that the employee was already

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on 100% Postconsumer, Process Chlorine Free Recycled Paper

on the agency's employment roster at the time of the move to the new appointment. The audit admits this was a practice used by previous Administrations and another indication the EPA's use of administratively determined positions is and continues to be consistent with its authority under the SDWA.

CONTACT INFORMATION:

If you have any questions regarding this response, please contact Aaron Dickerson at 202-564-6999 or Dickerson.aaron@epa.gov to ensure it is appropriately addressed.

Attachments:

Administratively Determined Positions
Administratively Determined Positions Legislative History

cc: Donna Vizian, OMS/PDAA.
Matthew Z. Leopold, General Counsel
Holly W. Greaves, Chief Financial Officer
Elise Packard, Deputy General Counsel for Operations
W. Carpenter, OMS/DAA-ARM
D. Zeckman, OMS/ADAA
K. Christensen, OIG/DIG
J. Trefry, OIG/Director
D. Fotohui, OGC/PDAA
D. Bloom, OCFO/PDAA

ADMINISTRATIVELY DETERMINED (AD)

Authority	Under provisions of the Safe Drinking Water Amendments of 1977 (Public Law 95-190, November 16, 1977), the EPA Administrator has the authority to fill 30 scientific, engineering, professional, legal, or administrative positions without regard to the civil service laws. These appointments allow the Administrator the flexibility of appointing individuals to positions equivalent to the GS-15 grade level and below pursuant to Section 11(b) of the Safe Drinking Water Amendments. No interaction or approval with OPM is required. The agency independently establishes positions, makes qualifications determinations and effects appointment.
Pay	The AD authority is an ungraded system, consisting of any pay rate not in excess of the maximum salary rate payable for the GS-15 step 10 level. When comparability increases are granted to other GS employees, the Administrator normally reviews existing AD pay rates and determines whether or not to adjust them as well. Such adjustments can be made across the board or on an individual basis.
Benefits	AD employees are entitled to the same benefits as competitive service employees: Annual and sick leave; health, life insurance coverage, and retirement.
Awards	Non-temporary AD employees are entitled to Time Off (TOA) and monetary awards (Q award, S award, On-The-Spot award, or Team award). These awards will be processed in accordance with the same guidance as provided for General Schedule employees. NOTE: Monetary awards for AD employees are on "freeze" per a memorandum from the White House dated August 3, 2010. They will remain on freeze until further notice.
Performs	AD employees are covered by the Agency's PERFORMS plan. AD employees should have performance agreements in place (based upon the Statement of Work) and evaluated accordingly.
Details	AD employees can be detailed to other excepted service positions.

AD's as Supervisors

AD appointees may supervise employees who occupy competitive service of SES positions (both General and Career Reserved).

Reassignment and Promotion

AD employees may be assigned to various capacities as the Administrator determines necessary. Thus, each reassignment action must be accompanied by a signed memorandum from the Administrator and Statement of Work.

Because AD employees are not in "graded" (GS) positions, they cannot be promoted; however, their pay may be adjusted at the request and approval of the Administrator.

Employees in AD positions must be able to qualify for the position's classification series and the level of work and responsibilities to be performed in accordance with the Office of Personnel Management's qualifications policies and standards. Example: In order to qualify for a position that has duties and responsibilities determined to be classifiable at the grade 11, the employee must have a least one year of specialized/directly related work experience at the next lower grade (grade 9).

Separations/Removals

AD employees serve at the pleasure of the Administrator and may be separated at any time. They have no appeal rights.

For additional information or questions, please call the Executive Resources Division, Office of Human Resources on 202-564-0400.

97th Congress }
2d Session }

COMMITTEE PRINT

A LEGISLATIVE HISTORY OF THE
SAFE DRINKING WATER ACT

TOGETHER WITH A
SECTION-BY-SECTION INDEX

PREPARED BY THE
ENVIRONMENT AND NATURAL RESOURCES
POLICY DIVISION
OF THE
CONGRESSIONAL RESEARCH SERVICE
OF THE
LIBRARY OF CONGRESS



FEBRUARY 1982

SERIAL NO. 97-9

Printed for the use of the
Senate Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON 20540

persons served by it of contaminant levels of any unregulated contaminant required to be monitored under section 1445(a) "after issued by the system."

(2) Section 1445(c) is further amended by striking out "disinfectant" and inserting in lieu thereof "issued under this subsection."

(c) Section 1445(a) of such Act is amended by striking out "or" before "in administering" and by inserting before the period at the end thereof: ", in evaluating the health risks of unregulated contaminants, or in advising the public of such risks."

(d) Section 1445(b)(1) of such Act is amended by inserting "(A)" immediately after "person subject to", by striking out "or" after "1412" and inserting in lieu thereof: ", (B) or", by striking out "(or person)" and substituting the following: ", or (C) any requirement to monitor an unregulated contaminant pursuant to subsection (a), or person", and by striking out the parenthesis after "or other person" and substituting "referred to in clause (A), (B), or (C)".

EMERGENCY ASSISTANCE

Sec. 13. Section 1442(a)(2)(B) of the Public Health Service Act, as amended by section 9 of this Act, is further amended by striking out "respecting drinking water" and all that follows down through the period in the end thereof and substituting: "affecting public water systems (including sources of water for such systems) which the Administrator determines to present substantial danger to the public health. Grants provided under this subparagraph shall be used only to support those actions which (i) are necessary for preventing, limiting or mitigating danger to the public health in such emergency situation and (ii) would not, in the judgment of the Administrator, be taken without such emergency assistance. The Administrator may carry out the program authorized under this subparagraph as part of, and in accordance with the terms and conditions of, any other program of assistance for environmental emergencies which the Administrator is authorized to carry out under any other provision of law. No limitation on appropriations for any such other program shall apply to amounts appropriated under this subparagraph."

(Material pertaining to Clean Air Act technical and conforming amendments has been omitted.)

Mr. RANDOLPH. Mr. President, presently pending before the Senate are amendments to S. 1528, the Safe Drinking Water Act Amendments of 1977.

The original version of this bill, approved by the Senate in May, extended through fiscal year 1978 the authorization for the safe drinking water program, which is administered by the Environmental Protection Agency. In July the House approved amendments to the Senate bill which provided for a 2-year reauthorization, extended for 2 years the date by which States must assume primary enforcement of the act, and made other substantive changes in the program. In August the Senate made additional changes in S. 1528 before sending it back to the House for approval. These increase the number of supergrade positions available to the EPA, place certain qualifications on the act's underground injection control program, and provide \$16 million for safe drinking water research.

Consultations held by the Senate Committee on Environment and Public Works with the House Committee on Interstate and Foreign Commerce and the administration indicate that further clarifications in S. 1528 are required. The measure now before the Senate contains these modifications and has been approved by the House. In addition, this legislation is being used to enact technical changes in the Clean Air Act amendments (Public Law 95-95).

I briefly discuss these changes in the previously adopted version of the Safe Drinking Water Act.

Senate debate CR 11-1-77

S. 1528, as passed by the Senate in August, allocated to the Environmental Protection Agency a total of 150 supergrade positions, which could be exempted from ceilings imposed by civil service laws and regulations. The provision was intended to augment the Agency's cadre of senior management and scientific personnel—substantially smaller in proportion to Agency size than that of other Federal agencies which carry out similar regulatory functions.

There has been consultation on this matter with the EPA, the Office of Management and Budget, the Civil Service Commission, and the House Committee on Post Office and Civil Service. The Senate Environment and Public Works Committee and the House Commerce Committee have agreed to authorize a total of 80 new positions. Fifty of these will be provided by increasing the Government-wide quota on supergrades contained in 5 U.S.C. 5108(n), and the Civil Service Commission has agreed that EPA will have first priority on assignment of these positions. Thirty additional supergrade positions will be provided directly to EPA and will be exempt from civil service laws and regulations.

The second amendment relates to the underground injection control (UIC) program under the Safe Drinking Water Act. In August the Senate approved language which directs the Administrator to avoid issuing UIC regulations which unnecessarily duplicate or disrupt existing State programs. This language was prompted by a concern over the effects of these requirements on the exploration for, and development of, oil and natural gas.

The amendments before the Senate clarify when a regulation would be unnecessarily disruptive or duplicative. According to the language approved by the Environment and Public Works Committee, a regulation would be disruptive only if it would be infeasible to comply with both the regulation and the State UIC program. Furthermore, a regulation would be deemed duplicative only if, without such regulation, underground sources of drinking water will not be endangered by any underground injection. Mr. President, these additions will insure protection of the public health without unduly disrupting existing State UIC programs or the national energy effort.

A third amendment, recommended by the National Academy of Sciences and the House Commerce Committee Subcommittee on Oversight and Investigations, authorizes the Administrator to require public water systems to monitor for sodium and other unregulated contaminants and to notify their customers concerning the level of this contaminant in their drinking water. The intent of the provision is to insure that medically sensitive groups, such as heart patients, are able to avoid drinking water which may be harmful to them, but not to the general public. The Environmental Protection Agency currently recommends that States require monitoring for sodium, but it has no statutory authority for making this recommendation mandatory.

Finally, in August the Senate approved an authorization of \$16 million for research and development activities under the Safe Drinking Water Act. However, that authorization has been included in the conference report on H.R. 5101, the Environmental Research, Development, and Demonstration Act of 1977, approved by the Senate on October 20—and has, therefore, been deleted from S. 1528.

my colleagues across the aisle in formulating the components of the amendment. I appreciate their counsel and assistance.

As I stated on the floor of the House in July when we first considered this bill, it would extend authorities for several existing programs that are essential to assure the provision of safe drinking water for the citizens of this country. The bill also directs the Administrator of the Environmental Protection Agency to study alternative methods to provide and pay for safe drinking water and to study the effect of PCB's trihalomethanes, and other toxic substances on sources of drinking water. These studies should supplement, but not delay, current or future control efforts. The bill also would extend the deadline for the attainment of primacy by States that have not done so and would permit States in the process of attaining primacy to receive program grants for public water system supervision programs.

I am offering today an amendment. Two parts of the amendment perfect and correct amendments to the bill passed by the Senate on August 5, 1977. Two other parts of the amendment add new sections to the bill. The remaining part of the amendment is technical in nature.

First, we propose to amend the Senate amendment pertaining to underground injection control programs. [Sec. 1412(b) SDWA] This amendment would carefully define and limit the effect of the Senate amendment on underground injection control regulations. It would provide that the Administrator's underground injection control regulations must, to the extent feasible, avoid promulgation of requirements which would unnecessarily disrupt State underground injection control programs which are in effect and being enforced in a substantial number of States. The amendment clearly defines what would constitute an unnecessary disruption of State programs and retains the basic and overriding requirement that the Administrator assure that underground drinking water sources—present and potential—will not be endangered by underground injection-related activities. This amendment has the support of the American Petroleum Institute and my colleagues on the other side of the aisle.

Second, we propose to amend the Senate amendment which would have authorized the appointment to the Environmental Protection Agency of 150 persons exempted from the civil service laws. Our amendment would reduce this amount to authorize the Administrator to appoint personnel to fill not more than 20 scientific, engineering, professional, legal, and administrative positions within the Environmental Protection Agency; these positions would be exempted from the civil service laws. Additionally, the amendment would expand the civil service pool by 50, from 3,240 to 3,290. This expansion would be earmarked for EPA. This amendment has the approval of the Office of Management and Budget, the Civil Service Commission, the Post Office and Civil Service Committee, and my colleagues on the minority side.

The third facet of the amendment would amend the bill by adding new section 12 which would authorize the Administrator to require periodic assessment and evaluation of unregulated contaminants of drinking water which may require continuous monitoring or regulation. [Sec. 1412(e), 1414(c), 1445(a), (b) SDWA] Presently the act may be read to authorize the Administrator only to require moni-

House debate 11-1-77

Third, the Senate amendment was more and contained no definition of the term "unnecessary disruption." The House amendment defines this term as "disruption in a way which narrows the impact of the measurement and prevents necessary and proper legal challenges to the Administrator's regulations." In specifying the definition of the term "disruption" in the House amendment, the prohibition in these national requirements which are so inconsistent with specific requirements being carried out in a number of States that both the national and State requirements cannot be met. If both State and national requirements can be met, even at substantially greater cost, then the national requirements could not be deemed disruptive.

Moreover, the definition of "unnecessary" makes clear that a disruptive national regulation would be prohibited only if it were also "unnecessary." The regulation of ground water would be on the State which wished to challenge the more, this definition is consistent with, and reinforces, the provision contained in section 1421(b)(3)(C) that nothing in the entire section should be construed to override the Administrator's duty to protect underground water from any potential endangerment resulting from underground injection.

Finally, the directive nature of this provision is underscored by including the words "to the extent feasible" in new section 1421(b)(3)(D)(i). These words were not included in the Senate amendment.

Studies

The House amendment contains certain provisions directing studies be undertaken under the Act. The Senate amendment contained identical provisions. In this respect, it is important to realize and emphasize the continued importance of the research funding program authorized by the Act. At page 8, the report explains that these studies should be conducted with a purpose and a purpose of public and nonprofit private groups. "One function of the Act should be to increase local, public involvement in regulating and funding studies of drinking water problems. This goal can be furthered by the Agency making special efforts to involve citizens groups and other nonprofit locally based concerns as recipients of grants or contracts to plan and execute the studies. This statement of Committee intent is underlined and supported by the recent reauthorization of the National Academy of Science that "EPAA's current means of awarding grants and contracts should be used to a greater extent to solicit or sponsor citizen group research and public education relevant to regulatory issues." (NAS, Perspectives on Technical Information for Environmental Protection Vol. 1, 1977, p. 49).

The House Committee report also explains that these studies are not meant to delay or otherwise affect regulatory or enforcement actions by EPA. Much too much delay has resulted already and these studies should supplement, rather than replace, effective regulatory action.

Monitoring unregulated pollutants

While this provision is specifically intended for application to the case of radon, there have been petitions to be aware of the radon content of water for dietary purposes. The amendment is not limited by its terms or intent to that single pollutant. Furthermore, nothing in this amendment should be construed to alter pre-existing public notice requirements for regulated contaminants.

Supergate amendment

Section 11 is a revision of the Senate amendment which would have provided the Administrator of EPA with special authority to appoint 160 additional personnel in the Agency. There have been extensive discussions and negotiations between the Civil Service Commission, OMB, and the Agency to determine the most efficient means for additional personnel and the most effective way of providing appointments authorized to meet those needs. The supergate amendment is the result of those discussions.

It provides for an increase of 60 positions in the government-wide pool of GS-16, 17 and 18 positions allocated to the Executive branch agencies by the Civil Service Commission with the understanding that this increase will be allocated

"Summary + Statement of Interest"

CR 11-1-77

to EPA. In addition, the amendment provides the Administrator with authority to appoint, as scientific, engineering, professional, legal and administrative personnel without regard to the competitive examination and pay provisions of title 5, United States Code.

The Administrator may pay such personnel up to the maximum rate payable for GS-18 (currently \$17,000). The combination of these two authorities provides EPA with 60 additional supergate and equivalent positions. The Civil Service Commission concurs in this amendment.

[Material pertaining to Clean Air Act technical and conforming amendments has been omitted.]

Mr. JORDAN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Colorado.

Mr. JORDAN of Colorado. I thank the gentleman for yielding. It is my understanding that the amendment relating to the water recycling program has been stricken from this bill. Is that correct?

Mr. ROBERTS. It is not in here because it is in the other bill. The provisions are incorrect.

Mr. JORDAN of Colorado. It was not the intention of the minority to eliminate this because of a feeling that it should not be there but because it was included somewhere else for the EPA.

Mr. ROBERTS. The gentleman is entirely correct.

Mr. JORDAN of Colorado. I thank the gentleman.

Mr. CARTER. Mr. Speaker, I reserve the remainder of my time.

Mr. ROBERTS. Mr. Speaker, I support this legislation. I think the chairman has explained it quite well.

Mr. SPEAKER. I support this legislation, the safe drinking water amendments, as modified by the House amendment to the Senate amendment—S. 1528.

Mr. SPEAKER, most of the provisions in this measure have already been approved by the House when it passed H.R. 6827 by voice vote on July 12, of this year.

The new provisions, which I support, include the following:

A provision to strike the Senate amendment authorizing \$16 million for research and development, because the EPA research and development conference bill already contains an identical authorization.

Provisions to clarify and amplify the intent of the Senate amendment on underground injection control programs to avoid unnecessary disruption of State underground injection control programs.

A provision which reduces the number of additional personnel for EPA from 150 to 80.

Authority for the Administrator of EPA to require periodic assessment and evaluation of unregulated contaminants which may require continuous monitoring or regulation, such as radon.

Technical and conforming amendments to the Clean Air Act.

And an amendment to section 9 of the House-passed bill which authorizes emergency assistance. The amendment would not change the basic thrust of this authority, but would permit the Administrator to carry it out in conjunction with any other emergency program for environmental assistance. Moreover, the amendment states that no limitation on appropriations for any such other program shall apply to amounts appropriated under this subpart.

Distribution

The Administrator
Deputy Administrator
Chief of Staff
Deputy Chief of Staff
Assistant Administrator for Mission Support
Agency Follow-Up Official (the CFO)
Agency Follow-Up Coordinator
General Counsel
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for Public Affairs
Principal Deputy Assistant Administrator for Mission Support
Associate Deputy Assistant Administrator for Mission Support
Deputy Assistant Administrator for Administration and Resources Management,
Office of Mission Support
Director, Office of Resources and Business Operations, Office of Mission Support
Director, Office of Continuous Improvement, Office of the Administrator
Audit Follow-Up Coordinator, Office of the Administrator
Audit Follow-Up Coordinator, Office of Mission Support



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0082

CROSS REFERENCE #: N/A

TITLE: PRUITT, E. SCOTT, ADMINISTRATOR, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: SPECIAL AGENT (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
EVIDENCE

NARRATIVE: On December 4, 2018, Special Agent (b) (6), (b) (7)(C)

Environmental Protection Agency (EPA), retrieved the following items from the OI, OIG Washington Field Office (WFO) evidence storage room located at the EPA William J. Clinton Building – (b) (7)(E).

1. 1 Verbatim DVD+R 16X – Interview of (b) (6), (b) (7)(C) – Burned June 13, 2018
2. 1 Verbatim DVD+R 16X – Interview of (b) (6), (b) (7)(C) – Burned June 7, 2018

The aforementioned items will be retained with the case file. Corresponding evidence custody sheets are attached in the following section of this document [Attachment 1&2].

ATTACHMENT(S):

1. 1 Verbatim DVD+R 16X – Interview of (b) (6), (b) (7)(C) – Burned June 13, 2018



evidence custody
sheet - DVD-R inter

2. 1 Verbatim DVD+R 16X – Interview of (b) (6), (b) (7)(C) – Burned June 7, 2018



evidence custody
sheet - DVD-R inter

CASE:
OI-HQ-2018-ADM-0082

DATE OF ACTIVITY:
December 4, 2018

INTERVIEWEE (if applicable):
N/A

DRAFTED DATE:
December 4, 2018

AGENT(S):
SA (b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0082

CROSS REFERENCE #: N/A

TITLE: PRUITT, E. SCOTT, ADMINISTRATOR, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: (b) (6), (b) (7)(C), SPECIAL AGENT

**MEMORANDUM OF ACTIVITY
EVIDENCE**

NARRATIVE: On December 12, 2018, Special Agent (b) (6), (b) (7)(C)

Environmental Protection Agency (EPA), transferred the items listed on the attached evidence custody form to (b) (6), (b) (7)(C) OPR, OI, OIG, EPA [Attachment 1].

ATTACHMENT(S):

1. Evidence Custody Form – 12DEC2018



evidence custody
form 12DEC2018.pdf

CASE:
OI-HQ-2018-ADM-0082

DATE OF ACTIVITY:
December 12, 2018

INTERVIEWEE (if applicable):
N/A

DRAFTED DATE:
December 12, 2018

AGENT(S):
SA (b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0082

CROSS REFERENCE #: OI-HQ-2018-ADM-0086

TITLE: PRUITT, E. SCOTT, ADMINISTRATOR, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: SPECIAL AGENT (b) (6), (b) (7)(C)

**MEMORANDUM OF ACTIVITY
OTHER**

NARRATIVE:

On March 14, 2019, Special Agent (b) (6), (b) (7)(C)

contacted former Assistant Special Agent in Charge, (b) (6), (b) (7)(C) EPA via telephone to confirm a consultation between ASAC (b) (6), (b) (7)(C) and the United States Department of Justice (USDOJ).

The purpose of the consultation was to ensure that the USDOJ identified no applicable criminal charges no did they have any prosecutorial interest.

SA (b) (6), (b) (7)(C) was informed by former ASAC (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) presented the facts of the investigation to the Assistant United States Attorney Sonali Patel, United States Attorney's Office, District of Columbia for consultation. ASAC (b) (6), (b) (7)(C) stated that AUSA Patel verbally informed (b) (6), (b) (7)(C) that his office has no prosecutorial interest in this investigation.

ATTACHMENT(S):

- None

CASE:
OI-HQ-2018-ADM-0082

DATE OF ACTIVITY:
March 14, 2019

INTERVIEWEE (if applicable):
N/A

DRAFTED DATE:
March 15, 2018

AGENT(S):
SA (b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0082

CROSS REFERENCE #: N/A

TITLE: Pruitt, E. Scott Administrator, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: Special Agent (b) (6), (b) (7)(C)

**MEMORANDUM OF ACTIVITY
OTHER**

NARRATIVE:

On June 27, 2018, Special Agent (b) (6), (b) (7)(C) Environmental Protection Agency, received an email from Malloy Transcription Service containing a transcript of the OIG interview of former EPA employee (b) (6), (b) (7)(C) [Attachment 1].

ATTACHMENT(S):

1. Interview of (b) (6), (b) (7)(C) Transcript



CASE:
OI-HQ-2018-ADM-0082

INTERVIEWEE (if applicable):
N/A

DATE OF ACTIVITY:
June 27, 2018

DRAFTED DATE:
July 18, 2018

AGENT(S):
SA (b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

DATE: MARCH 29, 2019

PREPARED BY: SA (b) (6), (b) (7)(C)

CASE #: OI-HQ-2018-ADM-0082

CROSS REFERENCE #: N/A

TITLE: PRUITT, E. SCOTT; POLITICAL APPOINTEE, ADMINISTRATOR, OA, EPA

CASE CLOSING REPORT

Subject(s)	Location	Other Data
Administrator Scott Pruitt	Washington, DC	N/A

ALLEGATIONS:

On April 9, 2018, the Office of Investigations (OI), Office of Inspector General, Environmental Protection Agency (EPA), received a memorandum from Kevin Minoli (Minoli), Principal Deputy General Counsel and Designated Agency Ethics Official, EPA. The memorandum, dated April 6, 2018, was issued by the United States Office of Government Ethics and addressed to Minoli. Pursuant to this memorandum, a case was opened to administratively investigate the following allegation: Did Administrator Pruitt have subordinates at the EPA assist him in finding personal housing.

On June 7, 2018, OI expanded the investigation to include the following allegations; (1) Did Administrator Pruitt use his official position and EPA staff to seek a "business opportunities" for (b) (6), (b) (7)(C); (2) Did Administrator Pruitt enlist subordinates at the EPA secure a mattress for his personal use; and (3) Did Administrator Pruitt have his security detail run personal errands for him.

FINDINGS:

All allegations are deemed inconclusive. Administrator Pruitt resigned from the EPA prior to the conclusion of the investigation; therefore, was no longer subject to the administrative Standards of Conduct.

DISPOSITION:

Based upon the aforementioned, there are no further investigative steps and this investigation is recommended for closure.



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

SEP 10 2018

THE INSPECTOR GENERAL

Mr. Emory A. Rounds III
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, D.C. 20005

Dear Mr. Rounds:

By letter dated June 15, 2018, David J. Apol, then acting Director and General Counsel, U.S. Office of Government Ethics (OGE), requested that my office investigate certain reports in the press of allegations of ethical misconduct by Scott Pruitt, who was at the time the Administrator of the U.S. Environmental Protection Agency (EPA). Mr. Apol also referred me to his letter of April 6, 2018, to Kevin Minoli, the EPA's Principal Deputy General Counsel and Designated Agency Ethics Official, in which Mr. Apol had raised concerns of other possible violations of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) by Mr. Pruitt while in office. Mr. Apol requested that we complete a review of the matters (both the previous ones he had raised in his April 6 letter and the new allegations) "so that [OGE] can decide whether to begin a formal corrective action proceeding in order to make a formal recommendation to the President."

Mr. Pruitt resigned his position as the EPA Administrator on July 5, 2018. Since then, our respective staffs have discussed what appropriate actions should be taken regarding the allegations your office referred to us concerning Mr. Pruitt's compliance with the Standards of Conduct. As you know, administrative penalties for violations of the Standards of Conduct can result in disciplinary action up to and including removal. However, as Mr. Pruitt's resignation precludes his being subject to any such potential administrative penalties with regard to these allegations, we understand that the OGE is no longer requesting that we review Mr. Pruitt's alleged actions for potential administrative violations of the Standards of Conduct. As such, the OIG does not intend to pursue the requests in your April 6 and June 15 letters to the extent that they would constitute administrative violations of the Standards of Conduct.

I would appreciate it if you would please confirm your agreement with our intended approach. If you have any questions about this, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

Arthur A. Elkins Jr.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0086

CROSS REFERENCE #: Case number

TITLE: Pruitt, E. Scott, Administrator, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
RECORDS REVIEW

NARRATIVE:

On July 6, 2018, Assistant Special Agent in Charge (ASAC) (b) (6), (b) (7)(C)

United States Environmental Protection Agency (EPA), completed a review the Fiscal Year 2017 Hypothetical Small Area Fair Market Rents (Attachment), which was published by the United States Department of Housing and Urban Development on their website at https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2017_code/2017summary_sa.odn. For the subject property, located at (b) (6), (b) (7)(C) C Street NE, Washington, DC 20002, the query revealed the following, in substance:

Washington-Arlington-Alexandria, DC-VA-MD-WV MSA Hypothetical Small Area FMRs
By Unit Bedrooms*

Zip Code	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom	Zip/CBS A Ratio
20002	\$1,110	\$1,160	\$1,340	\$1,750	\$2,190	0.831

*Fair Market Rents (FMRs) are used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment (HAP) contracts in the Moderate Rehabilitation Single Room Occupancy program (Mod Rehab), rent ceilings for rental units in both the HOME Investment Partnerships program and the Emergency Solution Grants program, calculation of maximum award amounts for Continuum of Care recipients and

CASE:
OI-HQ-2018-ADM-0086

INTERVIEWEE (if applicable):
N/A

DATE OF ACTIVITY:
July 6, 2018

DRAFTED DATE:
July 6, 2018

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

the maximum amount of rent a recipient may pay for property leased with Continuum of Care funds, and calculation of flat rents in Public Housing units.
(www.huduser.gov/portal/datasets/fmr)

ATTACHMENT(S):

FY2017 HYPOTHETICAL SMALL AREA FMRS FOR WASHINGTON-ARLINGTON-ALEXANDRIA, DC-VA-MD-WV MSA



FY2017
HYPOTHETICAL SMAI

CASE:
OI-HQ-2018-ADM-0086

DATE OF ACTIVITY:
July 6, 2018

RESTRICTED INFORMATION

Page 2 of 2

INTERVIEWEE (if applicable):
N/A

DRAFTED DATE:
July 6, 2018

AGENT(S):

(b) (6), (b) (7)(C)

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0086

CROSS REFERENCE #: Case number

TITLE: Pruitt, E. Scott, Administrator, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
DOCUMENT REVIEW

NARRATIVE:

On June 19, 2018, Assistant Special Agent in Charge (ASAC) (b) (6), (b) (7)(C), United States Environmental Protection Agency (EPA), received an email (Attachment 1) from Matt Leopold, General Counsel, Office of General Counsel, EPA, that contained an attached document titled "Emails Related to Ethics Opinion" (Attachment 2). ASAC (b) (6), (b) (7)(C) reviewed the attached document, which was an email from (b) (6), (b) (7)(C), Reporter, CNN, dated April 25, 2018, requesting a comment for an upcoming Congressional hearing involving Administrator Scott Pruitt.

ATTACHMENT(S):

1. Email from Matt Leopold, dated 2018.06.19



Email from Matt Leopold, dated 2018

2. Emails Related to Ethics Opinion from Matt Leopold



Emails Related to Ethics Opinion from

CASE:
OI-HQ-2018-ADM-0086
DATE OF ACTIVITY:
June 19, 2018

INTERVIEWEE (if applicable):
N/A
DRAFTED DATE:
July 6, 2018

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0086

CROSS REFERENCE #: Case number

TITLE: Pruitt, E. Scott, Administrator, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: (b) (6), (b) (7)(C)

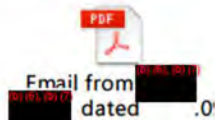
MEMORANDUM OF ACTIVITY
DOCUMENT REVIEW

NARRATIVE:

On September 4, 2018, Assistant Special Agent in Charge (ASAC) (b) (6), (b) (7)(C) United States Environmental Protection Agency (EPA), received an email (Attachment 1) from (b) (6), (b) (7)(C), that contained a letter (Attachment 2) that he wrote to Arthur Elkins, Inspector General, OIG, EPA. ASAC (b) (6), (b) (7)(C) reviewed the letter, which revealed that (b) (6), (b) (7)(C) requested that the OIG redact the names and all personal information of (b) (6), (b) (7)(C) clients, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), from any reports that pertain to their interviews or requested information that they provided.

ATTACHMENT(S):

1. Email from (b) (6), (b) (7)(C) dated 2018.09.04 re (b) (6), (b) (7)(C) Names in Reports



2. Letter from (b) (6), (b) (7)(C), dated 2018.09.04 re (b) (6), (b) (7)(C) Names in Reports



CASE:
OI-HQ-2018-ADM-0086

DATE OF ACTIVITY:
September 4, 2018

INTERVIEWEE (if applicable):
N/A

DRAFTED DATE:
September 5, 2018

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0086

CROSS REFERENCE #: N/A

TITLE: PRUITT, E. SCOTT, ADMINISTRATOR, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: SPECIAL AGENT (b) (6), (b) (7)(C)

**MEMORANDUM OF ACTIVITY
EVIDENCE**

NARRATIVE:

On March 4, 2019, Special Agent (b) (6), (b) (7)(C) Environmental Protection Agency (EPA), retrieved the following items from the OI, OIG, Washington Field Office (WFO) evidence storage room located at the EPA William J. Clinton Building – (b) (7)(E).

1. 1 Verbatim Compact Disc – Recording of Interview Marked “Burned May 15, 2018”
2. 1 Verbatim Compact Disc – Recording of Interview Marked “Burned May 21, 2018”

The items will be retained with the case file. Corresponding evidence custody sheets are attached in the following section of this document [Attachment 1 & 2].

ATTACHMENT(S):

1. 1 Verbatim Compact Disc – Recording of Interview Marked “Burned May 15, 2018”



0086 - Evidence
Custody Sheet - CD

2. 1 Verbatim Compact Disc – Recording of Interview Marked “Burned May 21, 2018”



0086 - Evidence
Custody Sheet - CD

CASE:
OI-HQ-2018-ADM-0086

DATE OF ACTIVITY:
March 4, 2019

INTERVIEWEE (if applicable):
N/A

DRAFTED DATE:
March 4, 2019

AGENT(S):
SA (b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVENUE, NW
WASHINGTON DC 20004

DATE: MARCH 11, 2019

PREPARED BY: SA (b) (6), (b) (7)(C)

CASE #: OI-HQ-2018-ADM-0086

CROSS REFERENCE #: N/A

TITLE: PRUITT, E. SCOTT, ADMINISTRATOR, OA

CASE CLOSING REPORT

Subject(s)	Location	Other Data
E. SCOTT PRUITT	WASHINGTON, D.C.	N/A

ALLEGATIONS:

On April 9, 2018, Assistant Inspector General of Investigations (AIGI) Patrick Sullivan (Sullivan), Office of Investigations (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), received a memorandum from Kevin Minoli (Minoli), Principal Deputy General Counsel and Designated Agency Ethics Official, EPA.

At the direction of AIGI Sullivan, an administrative case was opened to investigate the following allegation: (1) Did Administrator Pruitt's rental agreement with (b) (6), (b) (7)(C) constitute a gift.

INVESTIGATIVE FINDINGS:

Administrator Pruitt resigned from the EPA prior to the conclusion of the investigation. The allegation is inconclusive.

RECOMMENDATION:

Based upon the aforementioned, there are no further investigative steps and this investigation is recommended for closure.

RESTRICTED INFORMATION

Page 1

This report is the property of the Office of Investigations and is loaned to your agency: it and its contents may not be reproduced without written permission. The report is FOR OFFICIAL USE ONLY and its disclosure to unauthorized persons is prohibited. Public availability to be determined under 5 U.S.C. 552.



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

SEP 10 2018

THE INSPECTOR GENERAL

Mr. Emory A. Rounds III
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, D.C. 20005

Dear Mr. Rounds:

By letter dated June 15, 2018, David J. Apol, then acting Director and General Counsel, U.S. Office of Government Ethics (OGE), requested that my office investigate certain reports in the press of allegations of ethical misconduct by Scott Pruitt, who was at the time the Administrator of the U.S. Environmental Protection Agency (EPA). Mr. Apol also referred me to his letter of April 6, 2018, to Kevin Minoli, the EPA's Principal Deputy General Counsel and Designated Agency Ethics Official, in which Mr. Apol had raised concerns of other possible violations of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) by Mr. Pruitt while in office. Mr. Apol requested that we complete a review of the matters (both the previous ones he had raised in his April 6 letter and the new allegations) "so that [OGE] can decide whether to begin a formal corrective action proceeding in order to make a formal recommendation to the President."

Mr. Pruitt resigned his position as the EPA Administrator on July 5, 2018. Since then, our respective staffs have discussed what appropriate actions should be taken regarding the allegations your office referred to us concerning Mr. Pruitt's compliance with the Standards of Conduct. As you know, administrative penalties for violations of the Standards of Conduct can result in disciplinary action up to and including removal. However, as Mr. Pruitt's resignation precludes his being subject to any such potential administrative penalties with regard to these allegations, we understand that the OGE is no longer requesting that we review Mr. Pruitt's alleged actions for potential administrative violations of the Standards of Conduct. As such, the OIG does not intend to pursue the requests in your April 6 and June 15 letters to the extent that they would constitute administrative violations of the Standards of Conduct.

I would appreciate it if you would please confirm your agreement with our intended approach. If you have any questions about this, please contact Alan Larsen, Counsel to the Inspector General, at (202) 566-2391.

Sincerely,

Arthur A. Elkins Jr.

From: (b) (6), (b) (7)(C)
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: Subpoena of (b) (6), (b) (7)(C)
Date: Tuesday, September 04, 2018 4:28:46 PM
Attachments: (b) (6), (b) (7)(C).EPA.090418.pdf

(b) (6), (b) (7)(C) and (b) (6), (b) (7)(C):

Please see the attached letter and confirm receipt. Any other updates to report? Thanks.

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
Washington, DC 20036

(b) (6), (b) (7)(C) (Tel.)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading forwarding to others. The following statement is provided pursuant to U.S. Treasury Department Regulations: This communication is not intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding penalties that the Internal Revenue Service may impose on the taxpayer.

From: (b) (6), (b) (7)(C)
Sent: Thursday, June 7, 2018 9:53 AM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C) @epa.gov>; (b) (6), (b) (7)(C) @epa.gov>
Subject: RE: Subpoena of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) — The investigators asked that I follow up on getting a copy of the floorplan, mentioned below. Please advise.

Thank you,

(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C), EPA OIG
(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Wednesday, May 30, 2018 3:50 PM

To: (b) (6), (b) (7)(C) >

Subject: RE: Subpoena of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

Please see the Statements of Compliance attached.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

[Washington, DC 20036](#)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading forwarding to others. The following statement is provided pursuant to U.S. Treasury Department Regulations: This communication is not intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding penalties that the Internal Revenue Service may impose on the taxpayer.

From: (b) (6), (b) (7)(C) [epa.gov](#)>

Sent: Tuesday, May 29, 2018 4:06 PM

To: (b) (6), (b) (7)(C)

Subject: RE: Subpoena of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) – Thank you and the (b) (6), (b) (7)(C) for their cooperation in responding to the subpoena. I have forwarded the materials and your note below to the investigators.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), EPA OIG

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, May 29, 2018 11:41 AM

To: (b) (6), (b) (7)(C) [@epa.gov](#)>

Subject: RE: Subpoena of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Please find attached documents responsive to the subpoena dated May 4, 2018 on behalf of both (b) (6), (b) (7)(C). The executed Statements of Compliance are forthcoming. While the (b) (6), (b) (7)(C)

produce these documents in a good faith effort to produce all documents responsive to the EPA's subpoena, they nevertheless reserve the right to supplement the production with any documents that should come to their attention subsequent to today. In addition, (b) (6), (b) (7)(C) believes (b) (6), (b) (7)(C) may have communicated to Ryan Jackson about matters within the scope of your inquiry to Mr. Jackson at (b) (6), (b) (7)(C) from (b) (6), (b) (7)(C) prior email address (b) (6), (b) (7)(C) but (b) (6), (b) (7)(C) no longer has access to that email address due (b) (6), (b) (7)(C) separation from (b) (6), (b) (7)(C).

During (b) (6), (b) (7)(C) interview with the OIG, the OIG requested a floorplan of (b) (6), (b) (7)(C) C Street but (b) (6), (b) (7)(C) does not presently have one in (b) (6), (b) (7)(C) custody. (b) (6), (b) (7)(C) has, however, made a request for one to be provided and should it be obtained I will forward it along for your review.

Please don't hesitate to ask should you have any questions. Thanks.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

[Washington, DC 20036](#)

(b) (6), (b) (7)(C)

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading forwarding to others. The following statement is provided pursuant to U.S. Treasury Department Regulations: This communication is not intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding penalties that the Internal Revenue Service may impose on the taxpayer.

From: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)@epa.gov>
Sent: Wednesday, May 9, 2018 12:17 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Subpoena of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) – Thank you. We appreciate it.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), EPA OIG

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, May 09, 2018 12:12 PM
To: (b) (6), (b) (7)(C) <(b) (6), (b) (7)(C)@epa.gov>

Subject: Subpoena of [REDACTED] and [REDACTED]

[REDACTED]

I just wanted to drop you a note to let you know I am representing [REDACTED] and [REDACTED] on the matter before your office, and do not anticipate any issue with responding to subpoena by the return date. Please let me know if you have any questions. Thanks.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Washington, DC 20036](#)

(b) (6), (b) (7)(C)

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please advise by return e-mail and delete immediately without reading forwarding to others. The following statement is provided pursuant to U.S. Treasury Department Regulations: This communication is not intended or written to be used, and cannot be used, by a taxpayer for the purpose of avoiding penalties that the Internal Revenue Service may impose on the taxpayer.

From: (b) (6), (b) (7)(C)
To:
Subject: RE: Request - Review of Facts and, if Appropriate, a Declination (OI-HQ-2018-ADM-0086)
Date: Friday, August 17, 2018 4:48:41 PM

Hi (b) (6), (b) (7)(C)

We concur with your recommendation and are declining to prosecute at this time.

Thanks,
Sonali

From: (b) (6), (b) (7)(C) @epa.gov>
Sent: Tuesday, August 14, 2018 2:38 PM
To: Patel, Sonali (USADC) <SPATEL2@usa.doj.gov>
Subject: Request - Review of Facts and, if Appropriate, a Declination (OI-HQ-2018-ADM-0086)

Good afternoon Sonali,

The following is in reference to case number (OI-HQ-2018-ADM-0086). I have been advised that the case below must be reviewed by an AUSA before closing due to direction from our Inspector General and well as guidance included in our Standard Operating Procedures for case closures. The OIG opened the below case as purely administrative, but prior to closing, want to consult with you to confirm there is no applicable criminal violation that the DOJ is interested in pursuing at this time based on the facts below. As such, I'm sending this email to you. If you are not the appropriate AUSA to review, I apologize in advance; and, if you let me know who I could send it to, I will forward it accordingly.

Request: AUSA review for declination, if appropriate.

Issue(s)/Allegation(s): Did Administrator Pruitt's rental agreement with (b) (6), (b) (7)(C) constitute a gift?

Facts: The Office of Investigations (OI), Office of Inspector General, United States Environmental Protection Agency (EPA), received a memorandum, dated April 6, 2018, from the United States Office of Government Ethics. The memorandum brought forth allegations pertaining to matters affecting the EPA's Office of the Administrator, to which OI opened an administrative case to investigate ethical violations by Administrator Pruitt.

OI interviewed witnesses and reviewed records, which revealed the following, in sum:

Administrator Pruitt leased a condo located at (b) (6), (b) (7)(C) C Street NE, Washington, DC. Per the terms of the lease, Administrator Pruitt rented the condo from (b) (6), (b) (7)(C) C Street LLC (owned by (b) (6), (b) (7)(C)) for \$50.00 per day from February 20, 2017 to April 1, 2017. The lease limited Administrator Pruitt to the use of one bedroom of the unit. Other than verbally extending the terms of the lease, there were no changes to the lease.

Administrator Pruitt did not leave until August 4, 2017, despite (b) (6), (b) (7)(C) attempts to have him

leave. (b) (6), (b) (7)(C) stayed in the condo unit (b) (6), (b) (7)(C) use of a 2nd bedroom was not corroborated, but a witness stated that (b) (6), (b) (7)(C) stayed at the condo overnight multiple times). It was also revealed that Administrator Pruitt had unfettered access to the condo. Administrator Pruitt was allowed to and kept his personal belongings in the bedroom while he was not at the unit and could come and go as he pleased.

Administrator Pruitt paid \$6,100 total for his use of the condo, which equated to 122 days that he paid for the unit. The total number of days between February 20, 2017 and August 4, 2017 was 165 days. This discrepancy amounted to 43 days of which he had unfettered access to the condo unit for which he did not pay; and at \$50 per day, the discrepancy amounted to \$2,150.

Administrator Pruitt resigned from the EPA on July 5, 2018 while the investigation was ongoing; and at that time OI was investigating whether the rate of '\$50 per day' was "Market Value" as required in 5 Code of Federal Regulations (CFR) 2635, Subpart B, Sections 201 – 206. OI was also investigating "Impartiality" within the same Regulations.

Since Administrator Pruitt is no longer a Federal employee, it was unlikely that OI could interview him to obtain his statements pertaining to this matter. As such, OI could not complete the investigation as needed to be thorough; and thereby, find the allegation to be inconclusive.

Respectfully,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

USEPA | Office of Inspector General | Office of Investigations | Office of Professional Responsibility
1200 Pennsylvania Avenue, NW | Mail Code 2431T | Washington, DC 20460

Desk: 202 (b) (6), (b) (7)(C) | Mobile: (b) (6), (b) (7)(C)

To report fraud, waste or abuse impacting EPA, please contact the EPA OIG Hotline via telephone numbers 202-566-2476 or 888-546-8740, fax 202-566-2599, or email at oig_hotline@epa.gov



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

OFFICE OF
INSPECTOR GENERAL

September 20, 2018

Via email: (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

Washington, DC 20036

Dear (b) (6), (b) (7)(C):

Inspector General Elkins referred your letter dated September 7, 2018 to me for a response. As you note, your clients, (b) (6), (b) (7)(C) were interviewed by Office of Inspector General (OIG) agents regarding a matter involving the former Environmental Protection Agency Administrator, Scott Pruitt. Your letter requests the redaction of the names and personal information of the (b) (6), (b) (7)(C) and a week's notice prior to the publication of any report.

I can neither comment about whether the OIG may prepare a report in this case nor agree to provide notice to your clients. As to your clients' concerns about their privacy interests, if the OIG were to receive a request under the Freedom of Information Act (FOIA) for records relating to the subject matter, the OIG would follow and apply applicable FOIA exemptions to protect the personal privacy of your clients.

We appreciate (b) (6), (b) (7)(C) cooperation with our office. Should you have any questions about this, please do not hesitate to contact me at (202) (b) (6), (b) (7)(C).

Sincerely,

(b) (6), (b) (7)(C)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0086

CROSS REFERENCE #: N/A

TITLE: Pruitt, E. Scott, Administrator, OA

INTERVIEWEE (if applicable): N/A

PREPARED BY: (b) (6), (b) (7)(C), Special Agent

MEMORANDUM OF ACTIVITY
CONSULTATION

NARRATIVE:

On August 14, 2018, at the direction of Arthur Elkins, Inspector General, Office of Inspector General (OIG), Environmental Protection Agency (EPA), (b) (6), (b) (7)(C) Office of Professional Responsibility, Office of Investigations, OIG, EPA, presented the facts of this investigation to Sonali Patel (Patel), Assistant United States Attorney (AUSA), United States Attorney's Office, District of Columbia, for consultation [Attachment 1].

The purpose of the consultation was to ensure that the United States Department of Justice identified no applicable criminal charges nor did they have any prosecutorial interest.

On August 17, 2018, (b) (6), (b) (7)(C) received an email from AUSA Patel informing (b) (6), (b) (7)(C) that his office has no prosecutorial interest in this investigation.

ATTACHMENT(S):

1. USAO Consultation & Declination Pruitt, E. Scott, Administrator, OA



USAO
Declination.Pruitt, E

CASE:
OI-HQ-2018-ADM-0086

DATE OF ACTIVITY:
August 14, 2018

INTERVIEWEE (if applicable):
N/A

DRAFTED DATE:
February 27, 2018

AGENT(S):
SA (b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-CFD-0083

CROSS REFERENCE #: Case number

TITLE: Unknown Subject: Bribery

INTERVIEWEE (if applicable): N/A

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
EVIDENCE

NARRATIVE:

On January 31, 2019, Assistant Special Agent in Charge (ASAC) (b) (6), (b) (7)(C)

United States Environmental Protection Agency (EPA), Washington, DC, provided (b) (6), (b) (7)(C)

EPA, Washington, DC, a thumb drive (SanDisk Cruzer Glide 128 GB Model #SDCZ60-128G Serial # BP10625507B) containing emails.

Continuing on January 31, 2019, the aforementioned thumb drive was destroyed by (b) (6), (b) (7)(C)

ASAC (b) (6), (b) (7)(C) completed EPA form 2720-6 – Evidence Custody (Attachment).

ATTACHMENT(S):

Evidence Custody - Destruction – Thumb Drive



Evidence Custody
Form - Thumb Drive

CASE:
OI-HQ-2018-CFD-0083

DATE OF ACTIVITY:
January 31, 2019

INTERVIEWEE (if applicable):
N/A

DRAFTED DATE:
January 31, 2019

AGENT(S):

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 1

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

From: (b) (6), (b) (7)(C)
To: (b) (6), (b) (7)(C)
Subject: FW: Follow up - Recusal Confirmed - Additional Recused cases and referral
Date: Thursday, January 31, 2019 2:46:04 PM

From: Elkins, Arthur
Sent: Friday, August 17, 2018 4:08 PM
To: (b) (6), (b) (7)(C) @epa.gov
Cc: Larsen, Alan <Larsen.Alan@epa.gov>; Sheehan, Charles <Sheehan.Charles@epa.gov>; (b) (6), (b) (7)(C) @epa.gov
Subject: Re: Follow up - Recusal Confirmed - Additional Recused cases and referral

Okay. Thank you.

Art

Sent from my iPhone

On Aug 17, 2018, at 4:06 PM, (b) (6), (b) (7)(C) @epa.gov wrote:

Gentlemen,

Please see below. Operationally, I will take steps to finalize the turnover related to the recusal.

Best,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, August 17, 2018 3:34 PM
To: (b) (6), (b) (7)(C) @usdoj.gov; (b) (6), (b) (7)(C) @ic.fbi.gov
Cc: (b) (6), (b) (7)(C) @epa.gov
Subject: RE: Follow up - Recusal Confirmed - Additional Recused cases and referral

Gentlemen,

Good afternoon. (b) (6), (b) (7)(C) and I just met with the Inspector General regarding our conversation from last week. We briefed him on our discussion and recommendation related to the case recusal. He concurs. In addition, he desires to add the two additional OPR criminal cases into the scope of that recusal as they are sufficiently part of the set of issues related to the initial case being recused. To that end, I just spoke with (b) (6), (b) (7)(C) and I am referring these two additional cases to (b) (6), (b) (7)(C) for whatever additional

investigative activity deemed appropriate.

BREAK

(b) (6), (b) (7)(C)

I can have (b) (6), (b) (7)(C) coordinate with (b) (6), (b) (7)(C) to turnover what additional documentation we have on the two cases (b) (7)(E) (OI-HQ-20180ADM-0124); (b) (7)(E) (OI-HQ-2018-CFD-0083)), for 0083, (b) (7)(E)

If you have any questions or concerns, please don't hesitate to contact me at 202- (b) (6), (b) (7)(C)

Best,

(b) (6), (b) (7)(C)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVENUE NW
WASHINGTON, DC 20004

DATE: March 14, 2019

PREPARED BY: SA (b) (6), (b) (7)(C)

CASE #: OI-HQ-2018-ADM-0039

CROSS REFERENCE

TITLE: Allegation of Inappropriate Lobbying

CASE CLOSING REPORT

Subject(s)	Location	Other Data
NA	Washington, DC	

VIOLATIONS:

31 U.S.C. § 1341 – Antideficiency Act

Public Law 115-31 – Consolidated Appropriations Act of 2017

ALLEGATION:

On September 26, 2017, the Committee on Energy and Commerce, U.S. House of Representatives requested that the EPA Office of Inspector General (OIG) “develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between former Administrator Scott Pruitt and the National Mining Association.”

FINDINGS:

The OIG’s Office of Investigations conducted seven interviews with members of the National Mining Association and five interviews with EPA personnel who attended the April 2017 meeting. As the purpose of this inquiry was to develop a factual record of said meeting, on March 1, 2019, a written account of the information collected was sent to the Committee on Energy and Commerce, U.S. House of Representatives.

RESTRICTED INFORMATION

Page 1

This report is the property of the Office of Investigations and is loaned to your agency; it and its contents may not be reproduced without written permission. The report is FOR OFFICIAL USE ONLY and its disclosure to unauthorized persons is prohibited. Public availability to be determined under 5 U.S.C. 552.

DISPOSITION:

This was a fact-finding matter. The matter was completed and the appropriate documents provided to Congress. No further action is required. As such, this matter is being closed.



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

OFFICE OF
THE INSPECTOR GENERAL

MAR - 1 2019

The Honorable Frank Pallone Jr.
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Pallone:

In a letter dated September 26, 2017, you informed me that on August 1, 2017, you sent a letter to the U.S. Government Accountability Office (GAO) "requesting a legal opinion on whether recent actions by Administrator Scott Pruitt violated the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017 during the time period before President Trump decided to pull the U.S. out of the Paris climate accord." You also stated that "prior to GAO conducting an analysis of whether recent actions by Administrator Pruitt violated the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the CSA, it is necessary to establish a factual record." As a result, you requested that the U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) "develop a comprehensive factual record for instances where possible legal violations may have occurred, including the April 2017 meeting between Administrator Pruitt and the National Mining Association."

On December 4, 2017, the OIG responded to your request by stating that after discussing our intended approach with your staff and officials of the GAO, the OIG would compile a factual record of the single meeting between EPA Administrator Pruitt and the National Mining Association in April 2017 and provide it to you. In turn, you may provide the OIG record to the GAO.

To that end, the OIG's Office of Investigations conducted seven interviews with members of the National Mining Association and five interviews with EPA personnel who attended the April 2017 meeting. Before agreeing to the interviews, members of the National Mining Association requested confidentiality; hence, all personally identifiable information was omitted from the written account of those interviews, which is enclosed.

We appreciate your interest in the work of the OIG. If you have additional questions about this or any other matter, please contact Jennifer Kaplan, Deputy Assistant Inspector General for Congressional and Public Affairs, at (202) 566-0918.

Sincerely,

A handwritten signature in cursive script that reads "Charles J. Sheehan".

Charles J. Sheehan
Acting Inspector General

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0039

CROSS REFERENCE #: NA

TITLE: Allegation of Inappropriate Lobbying

INTERVIEWEE (if applicable): NA

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
OTHER

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Attached Documents:

1. Memorandum of Interview (b) (6), (b) (7)(C)
2. Memorandum of Interview (b) (6), (b) (7)(C)
3. Memorandum of Interview (b) (6), (b) (7)(C)
4. Memorandum of Interview (b) (6), (b) (7)(C)
5. Memorandum of Interview (b) (6), (b) (7)(C)
6. Memorandum of Interview – NMA01
7. Memorandum of Interview – NMA02
8. Memorandum of Interview – NMA03
9. Memorandum of Interview – NMA04
10. Memorandum of Interview – NMA05
11. Memorandum of Interview – NMA06
12. Memorandum of Interview – NMA07

CASE: Allegation of
Inappropriate Lobbying
OI-HQ-2018-ADM-0039

DATE OF ACTIVITY:
January 31, 2019

INTERVIEWEE (if applicable):
NA

DRAFTED DATE:
January 31, 2019

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

1. Memorandum of Interview – (b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

2. Memorandum of Interview – (b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

3. Memorandum of Interview – (b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

4. Memorandum of Interview – (b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

5. Memorandum of Interview – (b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

6. Memorandum of Interview – NMA01



MOI NMA01.pdf

7. Memorandum of Interview – NMA02



MOI NMA02.pdf

8. Memorandum of Interview – NMA03

CASE: Allegation of
Inappropriate Lobbying

OI-HQ-2018-ADM-0039

DATE OF ACTIVITY:

January 31, 2019

RESTRICTED INFORMATION

Page 2 of 3

INTERVIEWEE (if applicable):

NA

DRAFTED DATE:

January 31, 2019

AGENT(S):

(b) (6), (b) (7)(C)

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



MOI NMA03.pdf

9. Memorandum of Interview – NMA04



MOI NMA04.pdf

10. Memorandum of Interview – NMA05



MOI NMA05.pdf

11. Memorandum of Interview – NMA06



MOI NMA06.pdf

12. Memorandum of Interview – NMA07



MOI NMA07.pdf

CASE: Allegation of
Inappropriate Lobbying
OI-HQ-2018-ADM-0039
DATE OF ACTIVITY:
January 31, 2019

INTERVIEWEE (if applicable):
NA

DRAFTED DATE:
January 31, 2019

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 3 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0039 **CROSS REFERENCE #:**

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING
INTERVIEWEE (if applicable): (b) (6), (b) (7)(C)

PREPARED BY: (b) (6), (b) (7)(C)

**MEMORANDUM OF ACTIVITY
INTERVIEW**

NARRATIVE:

On April 12, 2018, Special Agents (SA) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Office of Investigation (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), conducted the interview of (b) (6), (b) (7)(C) EPA. The interview was in reference to a fact finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between Administrator Pruitt and the National Mining Association."

Prior to commencing the interview, OIG agents introduced themselves to (b) (6), (b) (7) presented their EPA OIG law enforcement credentials for review, and explained the nature of the interview. (b) (6), (b) (7) provided the following information in sum and non-verbatim:

(b) (6), (b) (7)(C)

CASE: OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
4/12/2018

DRAFTED DATE: 4/12/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Concerning (b) presence at the National Mining Association meeting on April 24, 2017, (b) explained that (b) attended the meeting as (b) (6), (b) (7)(C) (b) (b) also said that Administrator Pruitt's speaking engagement lasted approximately 30 minutes. According to (b), during this particular speaking engagement, Administrator Pruitt addressed an audience of nearly 200 people. According to (b) (6), (b) did not hear the Administrator mention anything related to his support for the US to withdraw from the Paris Agreement on Climate Change.

When asked about whether (b) attended the private meeting held between (b) (6), (b) (7)(C) the National Miners Association and Administrator Pruitt, (b) said (b) (6), (b) (7)(C) (b) was asked whether (b) recalls anyone in the audience asking Administrator Pruitt about (b) position concerning the US withdrawal from the Paris Agreement on Climate Change, (b) stated the subject was not discussed. When asked to expand on what type of information was discussed at the meeting, (b) responded that Administrator Pruitt discussed the EPA's goals, however, to the best of (b) knowledge the Paris Agreement on Climate Change was not discussed. (b) was also asked if (b) had any knowledge as to (b) (6), (b) (7)(C) (b) EPA wrote the speech.

When asked about the names of the EPA employees who attended the aforementioned meeting, (b) stated that (b) (6), (b) (7)(C) (b) were at the meeting. (b) (6), (b) (7)(C) (b) was present during the speaking engagement. (b) also said that (b) would be able to provide the names (b) (6), (b) (7)(C) to SA (b) (6), (b) via e-mail. SA (b) (b) (6), asked (b) whether (b) knew the names of the National Miners Association (b) (6), (b) (7)(C) with whom Administrator Pruitt met with subsequent to the speaking engagement, to which (b) responded that (b) would provide SA (b) (6), (b) (7)(C) the names via e-mail. (b)

SA (b) (6), (b) asked (b) the following specific questions:

On April 24, 2017, Mr. Pruitt attended a meeting with the National Miners Association in Naples Florida. During said meeting, did Mr. Pruitt suggest to the National Miners Association to support the US withdrawal from the Paris Climate Change Agreement?

(b) (6), response "no."
(b) (7)

CASE: OI-HQ-2018-ADM-
0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
4/12/2018

DRAFTED DATE: 4/12/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Did you hear Mr. Pruitt ask any of the National Miners Association members to pressure the President into withdrawing from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

During said meeting, did you suggest to the National Miners Association to support the US withdrawal from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

Did you hear any EPA employee who attended said meeting suggest to the National Mining Association that they should support or pressure the President into withdrawing from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

(b) (6), (b) (7)(C) sent SA (b) (6), (b) (7)(C) an e-mail message which contained the names of the PSD agents who attended the April 24, 2017 meeting between the National Mining Association and Administrator Pruitt [Attachment 1]. The e-mail also contained an attachment with the names of the National Mining Association (b) (6), (b) (7)(C) who met with Administrator Pruitt [Attachment 2].

Attachments:

1. E-mail message from (b) (6), (b) (7)(C) to SA (b) (6), (b) (7)(C) titled: (b) (6), (b) (7)(C)


NMA Meeting.pdf

2. National Mining Association (b) (6), (b) (7)(C) / Not dated.


National Mining Association (b) (6), (b) (7)(C)

CASE: OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
4/12/2018

DRAFTED DATE: 4/12/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 3 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: 01-HQ-2018-ADM-0039 CROSS REFERENCE #:

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE (if applicable) (b) (6), (b) (7)(C)

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
INTERVIEW

NARRATIVE:

On April 17, 2018, Special Agents (SA) (b) (6), (b) (7)(C) Office of Investigation (OI) Environmental Protection Agency (EPA) and (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Office of Investigation (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), conducted the interview (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) EPA. The interview was conducted in reference to a fact finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between Administrator Pruitt and the National Mining Association."

Prior to commencing the interview, OIG agents introduced themselves to (b) (6), (b) (7)(C) presented their EPA OIG law enforcement credentials for review, and explained the nature of the interview.

(b) (6), (b) (7)(C) provided the following information in sum and non-verbatim:

(b) (6), (b) (7)(C) accompanied EPA Administrator Scott Pruitt to a speaking engagement with the National Miners Association in Naples, FL. However,

CASE: 01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
4/17/2018

DRAFTED DATE: 4/18/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

(b) only recalls working with (b) (5), (b) (7)(C), EPA. (b) stated that even though (b) was present at the meeting the Administrator had with the National Mining Association, (b) does not recall Administrator Pruitt or anyone else discussing the Paris Climate Change Agreement.

(b) concluded by stating that (b) does not remember much of what was said by Administrator Pruitt during said meeting, however, (b) does remember that members of the press did not attend the meeting.

Prior to terminating the interview, (b) was asked the following questions:

On April 24, 2017, Mr. Pruitt attended a meeting with the National Miners Association in Naples Florida. During said meeting, did Mr. Pruitt suggest to the National Miners Association to support the US withdrawal from the Paris Climate Change Agreement?

(b) response "no, I don't remember Pruitt meeting separately with (b) (5), (b) (7)(C)." (b)

Did you hear Mr. Pruitt ask any of the National Miners Association members to pressure the President into withdrawing from the Paris Climate Change Agreement?

(b) response "I don't recall." (b)

During said meeting, did you suggest to the National Miners Association to support the US withdrawal from the Paris Climate Change Agreement?

(b) response "no." (b)

Did you hear any EPA employee who attended said meeting suggest to the National Mining Association that they should support or pressure the President into withdrawing from the Paris Climate Change Agreement?

(b) response "no." (b)

As (b) had no further pertinent information the interview was concluded. (b)

CASE: 01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
4/17/2018

DRAFTED DATE: 4/18/2018

AGENT:
(b) (5), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: 01-HQ-2018-ADM-0039 CROSS REFERENCE #:

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE (if applicable): (b) (6), (b) (7)(C)

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
INTERVIEW

NARRATIVE:

On April 12, 2018, Special Agents (SA) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Office of Inspector General (OIG), Environmental Protection Agency (EPA) and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) OI, OIG, EPA, conducted the interview of (b) (6), (b) (7)(C), EPA. The interview was in reference to a fact finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between Administrator Pruitt and the National Mining Association."

Prior to commencing the interview, OIG agents introduced themselves to (b) (6), (b) (7)(C) presented their EPA OIG law enforcement credentials for review, and explained the nature of the interview. (b) (6), (b) (7) provided the following information in sum and non-verbatim:

(b) (6), (b) (7)(C)

CASE: 01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
4/12/2018

DRAFTED DATE: 4/13/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

(b) (6), (b) (7)(C)

When asked about if [REDACTED] attended Administrator Pruitt's meeting with the National Miners Association in Naples, FL on April 24, 2017, (b) (6), (b) (7)(C) responded, "yes, I was there for the majority of the meeting, but briefly stepped out." When asked about how long the meeting lasted, (b) (6), (b) (7)(C) said "about 45 minutes." (b) (6), (b) (7)(C) was asked if Administrator Pruitt met with (b) (6), (b) (7)(C) from the National Mining Association prior to the speaking engagement, to which (b) (6), (b) (7)(C) responded that there was no pre-meeting.

When asked if Administrator Pruitt discussed anything related to the US withdrawal from the Paris Agreement on Climate Change, (b) (6), (b) (7)(C) stated not to know for sure if anything was mentioned about the topic. When asked if (b) (6), (b) (7)(C) recalls what Administrator Pruitt's speech was about, (b) (6), (b) (7)(C)

[REDACTED] Administrator Pruitt talked about "returning the agency to its core mission, process and cooperation." (b) (6), (b) (7)(C) added that (b) (6), (b) (7)(C) does not know for sure if Administrator Pruitt mentioned anything about the Paris Agreement on Climate Change.

As the interview progressed (b) (6), (b) (7)(C) was asked again if Administrator Pruitt met with (b) (6), (b) (7)(C) from the National Mining Association separate from the speaking engagement, at which point (b) (6), (b) (7)(C) recalled that there was a post-meeting between Administrator Pruitt and (b) (6), (b) (7)(C) the National Mining Association, and that this meeting was attended by a group (b) (6), (b) (7)(C) from the National Mining Association. When asked (b) (6), (b) (7)(C) knows the names of the attendees, (b) (6), (b) (7)(C) said, the only name he recalls is (b) (6), (b) (7)(C) and added that (b) (6), (b) (7)(C) EPA would know the rest of the names. (b) (6), (b) (7)(C) also said that (b) (6), (b) (7)(C) at the EPA was present for the meeting, as well as (b) (6), (b) (7)(C). When asked if during the private meeting Administrator Pruitt had with (b) (6), (b) (7)(C) the National Mining Association he mentioned anything about the Paris Climate Change Agreement, (b) (6), (b) (7)(C) responded that the topic was briefly discussed, however, Administrator Pruitt limited himself to explaining his position on the topic. According to (b) (6), (b) (7)(C) "there was no call" from Administrator Pruitt to the miners to pressure the president into withdrawing from the Paris Agreement on Climate Change. When asked to expand on what exactly Administrator Pruitt said his position was concerning the US withdrawal from the Paris Agreement on Climate Change, (b) (6), (b) (7)(C) said, "the Administrator's position is that withdrawing is a good thing." According to

CASE: 01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
4/12/2018

DRAFTED DATE: 4/13/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 2 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a

(b) (6), (b) (7)(C) Administrator Pruitt believes "it was an unfair deal for our country" and that "the President did the right thing." (b) (6), (b) (7)(C) uttered, "this is what he says now." (b) (6), (b) (7)(C) later said that (b) (6), (b) (7)(C) does not recall if that is exactly what Administrator Pruitt said during the meeting with the miners.

SA (b) (6), (b) (7)(C) asked (b) (6), (b) (7)(C) the following specific questions:

On April 24, 2017, Mr. Pruitt attended a meeting with the National Miners Association in Naples Florida. During said meeting, did Mr. Pruitt suggest to the National Miners Association to support the US withdrawal from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "Not to my recollection."

Did you hear Mr. Pruitt ask any of the National Miners Association members to pressure the President into withdrawing from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

During said meeting, did you suggest to the National Miners Association to support the US withdrawal from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

Did you hear any EPA employee who attended said meeting to suggest to the National Mining Association that they should support or pressure the President into withdrawing from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

As (b) (6), (b) (7)(C) had not further information to share the interview was concluded.

CASE: D1-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
4/12/2018

DRAFTED DATE: 4/13/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 3 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
61 FORSYTH STREET, SW
ATLANTA, GA 30303

CASE #: OI-HQ-2018-ADM-0039

CROSS REFERENCE #:

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE: (b) (6), (b) (7)(C) EPA (b) (6), (b) (7)(C)

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
INTERVIEW

NARRATIVE:

On May 21, 2018, SA (b) (6), (b) (7)(C) contacted (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) to schedule an interview regarding an allegation of possible Antideficiency Act and Consolidated Appropriations Act of 2017 violations committed by EPA Administrator Scott Pruitt during an April 2017 meeting with the National Mining Association. When informed of the purpose of the interview, (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) was not present at this meeting. (b) (6), (b) (7)(C) reported the following:

(b) (6), (b) (7)(C)

During (b) (6), (b) (7)(C) this trip, Pruitt was scheduled to meet with the National Mining Association. (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

CASE #:
OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

(b) (6), (b) (7)(C)

DATE OF ACTIVITY:
05/21/18

DRAFTED DATE:
05/21/18

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

(b) (6), (b) (7)(C)

but was too far away to overhear any of their conversations.

CASE #:
01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
(b) (6), (b) (7)(C)

DATE OF ACTIVITY:
05/21/18

DRAFTED DATE:
05/21/18

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0039

CROSS REFERENCE #:

TITLE: Allegation of Inappropriate Lobbying

INTERVIEWEE (if applicable): (b) (6), (b) (7)(C)

PREPARED BY: SA (b) (6), (b) (7)(C)

**MEMORANDUM OF ACTIVITY
INTERVIEW**

NARRATIVE:

On April 26, 2018, Special Agents (SA) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) Office of Investigation (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), conducted an interview of (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) EPA. The interview was conducted in reference to a fact-finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between Administrator Pruitt and the National Mining Association."

Prior to commencing the interview, OIG agents introduced themselves to (b) (6), (b) (7)(C) presented their EPA OIG law enforcement credentials for review, and explained the nature of the interview. (b) (6), (b) (7)(C) provided the following information in summary and non-verbatim:

(b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) accompanied Administrator Pruitt to the meeting with the (b) (6), (b) (7)(C) National Mining Association (NMA). According to (b) (6), (b) (7)(C), Administrator Pruitt gave a speech to the attendees; however, (b) (6), (b) (7)(C) does not remember him mentioning the Paris Climate Change

CASE:
OI-HQ-2018-ADM-0039
DATE OF ACTIVITY:
April 26, 2018

INTERVIEWEE (if applicable):
(b) (6), (b) (7)(C)
DRAFTED DATE:
April 30, 2018

AGENT(S):
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Agreement. (b) (6), (b) (7)(C) added that the meeting with the NMA was a closed event and no media was present. (b) (6), (b) (7)(C) did not provide additional information concerning the matter under review.

Prior to terminating the interview, (b) (6), (b) (7) was asked the following questions:

On April 24, 2017, Mr. Pruitt attended a meeting with the National Miners Association in Naples Florida. During said meeting, did Mr. Pruitt suggest to the National Miners Association to support the US withdrawal from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

Did you hear Mr. Pruitt ask any of the National Miners Association members to pressure the President into withdrawing from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

During said meeting, did you suggest to the National Miners Association to support the US withdrawal from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

Did you hear any EPA employee who attended said meeting to suggest to the National Mining Association that they should support or pressure the President into withdrawing from the Paris Climate Change Agreement?

(b) (6), (b) (7)(C) response "no."

As (b) (6), (b) (7) had no further pertinent information the interview was concluded.

CASE:
OI-HQ-2018-ADM-0039
DATE OF ACTIVITY:
April 26, 2018

INTERVIEWEE (if applicable):
(b) (6), (b) (7)
DRAFTED DATE:
April 30, 2018

AGENT(S):
(b) (6), (b) (7)
(b)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0039 **CROSS REFERENCE #:**

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE (if applicable): NMA01

PREPARED BY: (b) (6), (b) (7)(C)

**MEMORANDUM OF ACTIVITY
INTERVIEW**

NARRATIVE:

To comply with the confidentiality agreement made between (b) (6), (b) (7)(C) representing the National Mining Association (NMA) (b) (6), (b) (7)(C) and EPA Office of Inspector General, except for (b) (6), (b) (7)(C) and the OIG Special Agents who conducted the interview, the names of all other participants are omitted from this report.

On August 13, 2018, Special Agent (SA) (b) (6), (b) (7)(C) Office of Investigations (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), and SA (b) (6), (b) (7)(C) (OI), (OIG), (EPA), telephonically interviewed NMA01. The interview was conducted in reference to a fact-finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between former Administrator Pruitt and the National Mining Association (NMA)."

Present for the interview were (b) (6), (b) (7)(C) and another NMA attorney.

CASE: OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
8/16/2018

DRAFTED DATE: 8/21/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Prior to commencing the interview SA (b) (6), (b) (7) restated the purpose of the interview. NMA01 was asked a total of 10 questions. [See attachment 1]. The following is a non-verbatim account of the responses provided by NMA01.

During the initial stages of the interview, NMA01 confirmed (b) (6), (b) (7)(C) with the NMA. NMA01 stated (b) (6), (b) (7)(C) attended the meeting with former Administrator Pruitt, and recalls that Pruitt's speech consisted of discussing issues related to the environment and environmental regulations. According to NMA01, (b) (6), (b) (7)(C) has no recollection of Pruitt discussing the Paris climate accord, and added that neither Pruitt nor any other EPA employee mentioned anything related to the Paris climate accord. NMA01 also said that no one asked (b) (6), (b) (7)(C) to publicly support the US withdrawal from the Paris climate accord. NMA01 reiterated (b) (6), (b) (7)(C) has no recollection of Pruitt discussing the Paris accord during the meeting, and added that Pruitt only spoke about the regulatory issues affecting the US.

NMA01 stated that the proposal to vote on whether or not to support the US withdrawal from the Paris climate accord was made by (b) (6), (b) (7)(C) and decided day after the (b) (6), (b) (7)(C) met with former Administrator Pruitt. According to NMA01, some (b) (6), (b) (7)(C) expressed the Paris accord was not a good policy for the coal industry.

Attachment:

1. Interview questions/Undated



CASE: OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
8/16/2018

DRAFTED DATE: 8/21/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: 01-HQ-2018-ADM-0039 CROSS REFERENCE #:

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE (if applicable): NMA02

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
INTERVIEW

NARRATIVE:

To comply with the confidentiality agreement made between (b) (6), (b) (7)(C) representing the National Mining Association (NMA) (b) (6), (b) (7)(C), and the EPA Office of Inspector General, except for (b) (6), (b) (7)(C) and the OIG Special Agents who conducted the interview, the names of all other participants are omitted from this report.

On August 2, 2018, Special Agents (SA) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Office of Investigations (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), conducted the telephonic interview of NMA02. The interview was conducted in reference to a fact-finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between former Administrator Pruitt and the National Mining Association (NMA)."

Present for the interview were: (b) (6), (b) (7)(C) and an executive from NMA02's organization.

CASE: 01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
8/2/2018

DRAFTED DATE: 8/2/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Prior to commencing the interview SA (b) (6), (b) (7)(C) restated the purpose of the interview. NMA02 was asked a total of 10 questions. [See attachment 1]. The following is a non-verbatim account of the responses provided by NMA02.

(b) (6), (b) (7)(C)

was present during the speaking engagement and subsequent meeting between former Administrator Pruitt and the NMA (b) (6), (b) (7)(C). NMA02 stated that during the speaking engagement and private meeting, former Administrator Pruitt mentioned the Paris climate accord along the lines that the EPA was deregulating. NMA02 reported that former Administrator Pruitt also said that "the U.S. should withdraw from the Paris accord," and added that (b) (6), (b) (7)(C) recalls former Administrator Pruitt said that the Paris accord is unfair and that "the U.S. should withdraw."

NMA02 said that neither former Administrator Pruitt nor any member of Pruitt's staff urged (b) (6), (b) (7)(C) to publicly support the U.S. withdrawal from the Paris climate accord. NMA02 stated (b) (6), (b) (7)(C) was not urged by former Administrator Pruitt to pressure President Trump to withdraw from the Paris climate accord. NMA02 reiterated that former Administrator Pruitt did not ask (b) (6), (b) (7)(C) to pressure President Trump to withdraw from the Paris climate accord.

According to NMA02, arrangements to convene a meeting to vote on whether or not to support the U.S. withdrawal from the Paris climate accord were made before (b) (6), (b) (7)(C) met with former Administrator Pruitt; therefore, said meeting or the decisions made by (b) (6), (b) (7)(C) in said meeting were not influenced by former Administrator Pruitt's meeting with the NAM (b) (6), (b) (7)(C). NMA02 added that (b) (6), (b) (7)(C) "would not be able to say with any degree of certainty that (b) (6), (b) (7)(C) were influenced by the conversation with Pruitt. To say so would be speculation."

As NMA02 had not further information to share, the interview was concluded.

Attachment:

1. Interview questions/Undated



CASE: 01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):

DATE OF ACTIVITY:
8/2/2018

DRAFTED DATE: 8/2/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 2 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

CASE: OI-HQ-2018-ADM-0039

INTERVIEWEE *(if applicable):*

DATE OF ACTIVITY:
8/2/2018

DRAFTED DATE: 8/2/2018

AGENT:

(b) (5), (b) (7)(C)

RESTRICTED INFORMATION

Page 3 of 3

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: 01-HQ-2018-ADM-0039 **CROSS REFERENCE #:**

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE (if applicable): NMA03

PREPARED BY: (b) (6), (b) (7)(C)

**MEMORANDUM OF ACTIVITY
INTERVIEW**

NARRATIVE:

To comply with the confidentiality agreement made between M (b) (6), (b) (7)(C) representing the National Mining Association (NMA) (b) (6), (b) (7)(C), and the EPA Office of Inspector General, except for (b) (6), (b) (7)(C) and the OIG Special Agents who conducted the interview, the names of all other participants are omitted from this report.

On August 15, 2018, Special Agents (SA) (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Office of Investigations (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), conducted the telephonic interview of NMA03. The interview was conducted about a fact-finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between former Administrator Pruitt and the National Mining Association (NMA)."

Present for the interview were: (b) (6), (b) (7)(C) another NAM attorney, NMA03, and NMA's corporate counsel.

CASE: 01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
NMA03

DATE OF ACTIVITY:
8/15/2018

DRAFTED DATE:
8/16/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Prior to commencing the interview SA (b) (6), (b) (7)(C) reiterated the purpose of the interview. NMA03 was asked a total of 10 questions. [See attachment 1]. The following is the non-verbatim account of the responses NAM03 provided to the questions.

During the initial stages of the interview, NMA03 confirmed (b) (6), (b) (7)(C) NMA03 explained (b) (6), (b) (7)(C) and nothing was mentioned about the Paris Accord. (b) (6), (b) (7)(C). When asked if (b) (6) was pressured by Pruitt or any other EPA employee to support the US withdrawal from the Paris Accord, NMA03 replied, "I don't recall that." NMA03 further stated that no one asked (b) (6) to pressure President Trump to withdraw from the Paris Accord. (6)

About whether the meeting with Pruitt influenced (b) (6) personal or organizational (b) (6), (b) (7)(C) decision to withdraw from the Paris Accord, NMA03 said that (b) (6), (b) (7)(C) when the members decided to vote on whether to express support for the US withdrawal from the Paris Accord. NMA03 added that (b) (6) company did not support the US withdrawal from the Paris Accord, and further stated that (b) (6), (b) (7)(C) said to (b) (6) that one of the (b) (6), (b) (7)(C) was "pushing" for the vote to support the withdrawal. NMA03 concluded by stating that because (b) (6) company did not support the US withdrawal from the Paris Climate Accord, (b) (6) could not say that the NMA's decision to support the withdrawal was influenced by Pruitt. (6)

Attachment:

1. Interview questions/Undated



CASE: 01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
NMA03

DATE OF ACTIVITY:
8/15/2018

DRAFTED DATE:
8/16/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL**

1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0039 **CROSS REFERENCE #:**

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE (if applicable): NMA04

PREPARED BY: (b) (6), (b) (7)(C)

**MEMORANDUM OF ACTIVITY
INTERVIEW**

NARRATIVE:

To comply with the confidentiality agreement made between (b) (6), (b) (7)(C), representing the National Mining Association (NMA) (b) (6), (b) (7)(C), and the EPA Office of Inspector General, except for (b) (6), (b) (7)(C) and the OIG Special Agents who conducted the interview, the names of all other participants are omitted from this report.

On August 16, 2018, Special Agents (SA) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Office of Inspector General (OIG), Environmental Protection Agency (EPA) and (b) (6), (b) (7)(C) OI, OIG, EPA, conducted the telephonic interview of NMA04. The interview was conducted in reference to a fact-finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between former Administrator Pruitt and the National Mining Association (NMA)."

CASE:
OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
NMA04

DATE OF ACTIVITY:
8/16/2018

DRAFTED DATE:
8/23/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Present for the interview were (b) (6), (b) (7)(C), a second NMA attorney, NMA04 and a corporate attorney representing NMA04.

Prior to commencing the interview SA (b) (6), (b) (7)(C) restated the purpose of the interview. NMA04 was asked a total of 10 questions. [See attachment 1]. The following is a non-verbatim account of the responses provided by NMA04.

NMA04 confirmed (b) (6), (b) (7)(C) association with the NMA (b) (6), (b) (7)(C) and stated (b) (6), (b) (7)(C) attended the speaking engagement with former Administrator Pruitt on April 24, 2017. Regarding (b) (6), (b) (7)(C) recollection of whether former Administrator Pruitt discussed the Paris Climate Accord, NMA04 said "I don't think he did." NMA04 added that what (b) (6), (b) (7)(C) recalls about former Administrator Pruitt is that he was focused on the EPA's priorities and regulations, such as rolling back some of the EPA laws.

According to NMA04, neither former Administrator Pruitt nor any members of Pruitt's cabinet urged (b) (6), (b) (7)(C) to publicly support the U.S. withdrawal from the Paris Climate Accord. NMA04 also stated that former Administrator Pruitt did not ask (b) (6), (b) (7)(C) to pressure President Trump to withdraw from the Paris Climate Accord. NMA04 stated that the meeting with former Administrator Pruitt had no impact on (b) (6), (b) (7)(C) personal or organizational decision to send a letter to President Trump expressing support of the U.S. withdrawal from the Paris Climate Accord.

As NMA04 had no further information to share, the interview was concluded.

Attachment:

1. Interview questions/Undated



CASE:
OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
NMA04

DATE OF ACTIVITY:
8/16/2018

DRAFTED DATE:
8/23/2018

AGENT:

(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: 01-HQ-2018-ADM-0039 CROSS REFERENCE #:

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE (if applicable): NMA05

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
INTERVIEW

NARRATIVE:

To comply with the confidentiality agreement made between (b) (6), (b) (7)(C) representing the National Mining Association (NMA) (b) (6), (b) (7)(C), and the EPA Office of Inspector General, except for (b) (6), (b) (7)(C) and the OIG Special Agents who conducted the interview, the names of all other participants are omitted from this report.

On August 29, 2018, Special Agent (SA) (b) (6), (b) (7)(C) Office of Investigations (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), conducted the telephonic interview of NMA05. The interview was conducted in reference to a fact-finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between former Administrator Pruitt and the National Mining Association (NMA)."

Present for the interview were: (b) (6), (b) (7)(C) a second NMA attorney, NMA05 and a corporate attorney representing NMA05.

CASE:
01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
NMA05

DATE OF ACTIVITY:
8/29/2018

DRAFTED DATE:
8/31/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION

Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

Prior to commencing the interview SA (b) (6), (b) (7) reiterated the purpose of the interview. NMA05 was asked a total of 10 questions. [See attachment 1]. The following is a non-verbatim account of the responses provided by NMA05 to the interview questions.

NMA05 explained that (b) (6), (b) (7)(C); consequently, (b) represents said company before the NMA. Concerning the meeting between former Administrator Pruitt and the NMA (b) (6), (b) (7)(C), NMA05 stated (b) attended the meeting with former Administrator Pruitt, and recalls Pruitt mentioning that the Paris Climate Accord was under review by the Trump administration. NMA05 also said that former Administrator Pruitt's speech was broad and that he mentioned something about deregulation and job creation.

According to NMA05, neither Pruitt nor anyone from Pruitt's staff requested of (b) or any other NMA (b) (6), (b) (7)(C) to publicly criticize the Paris Accord. NMA05 also said that (b) was not asked to pressure President Trump to withdraw from the Paris Accord. About the letter the NMA sent to President Trump expressing the organization's support of the U.S. withdrawal from the Paris Accord, NMA05 stated (b) (6), (b) (7)(C) when the voting decision was made by the NMA (b) (6), (b) (7)(C); however, the company (b) represents opposed the U.S. withdrawal from the Paris Accord. (6)

Since NMA05 had no further information concerning the matter under investigation, the interview was concluded.

Attachment:

1. Interview questions/Undated



CASE:
OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
NMA05

DATE OF ACTIVITY:
8/29/2018

DRAFTED DATE:
8/31/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0039 **CROSS REFERENCE #:**

TITLE: ALLEGATION OF INAPPROPRIATE LOBBYING

INTERVIEWEE (if applicable): NMA06

PREPARED BY: (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
INTERVIEW

NARRATIVE:

On August 16, 2018, Special Agents (SA) (b) (6), (b) (7)(C) Office of Investigations (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), conducted the telephonic interview of NMA06. The interview was conducted in reference to a fact-finding inquiry pursuant to a Congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between former Administrator Pruitt and the National Mining Association (NMA)."

Present for the interview were: (b) (6), (b) (7)(C) and a second NMA attorney.

Prior to commencing the interview SA (b) (6), (b) (7)(C) reiterated the purpose of the interview. NMA06 was asked a total of 10 questions. [See attachment 1]. The following is a non-verbatim account of the responses NMA06 provided to the questions.

CASE:
OI-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
(b) (6), (b) (7)(C)

DATE OF ACTIVITY:
8/16/2018

DRAFTED DATE:
8/21/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

NMA06 stated (b) attended the speaking engagement with former Administrator Pruitt, (b) (6), (b) (7)(C). NMA06 stated, that during the speaking engagement, Pruitt mentioned the Paris Climate agreement, in specific that the Paris agreement did not serve the interest of the country.

About whether former Administrator Pruitt urged (b) (6), (b) (7)(C) or any of the attending (b) (6), (b) (7)(C) to publicly support the U.S. withdrawal from the Paris Climate agreement, NMA06 stated (b) did not hear Pruitt ask for the organization or anyone to take any action concerning the Paris agreement. NMA06 also said that no one from Pruitt's staff asked (b) (6), (b) (7)(C) to publicly criticize the Paris Climate agreement to pressure Mr. Trump to withdraw.

In discussing the private meeting that former Administrator Pruitt had (b) (6), (b) (7)(C), NMA06 stated that during that particular meeting, (b) did not hear anything from former Administrator Pruitt that could be construed as him asking (b) the NMA to take any action about the Paris Climate Accord. NMA06 added that (b) did not hear former Administrator Pruitt asking (b) nor anyone else to pressure President Trump to withdraw from the Paris Accord. Concerning the letter the NMA sent to President Trump in support of the U.S. withdrawal from the Paris Accord, NMA06 said that (b) (6), (b) (7)(C) decided to send said letter, and that (b) personal decision to support or not to support the U.S. withdrawal from the Paris Accord was not influenced by anything former Administrator Pruitt said.

Attachment:

1. Interview questions/Undated



CASE:
01-HQ-2018-ADM-0039

INTERVIEWEE (if applicable):
(b) (6), (b) (7)(C)

DATE OF ACTIVITY:
8/16/2018

DRAFTED DATE:
8/21/2018

AGENT:
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL
1301 CONSTITUTION AVE, NW
WASHINGTON, DC 20004

CASE #: OI-HQ-2018-ADM-0039

CROSS REFERENCE #:

TITLE: Allegation of Inappropriate Lobbying

INTERVIEWEE (if applicable): NMA07

PREPARED BY: SA (b) (6), (b) (7)(C)

MEMORANDUM OF ACTIVITY
INTERVIEW

NARRATIVE:

To comply with the confidentiality agreement made between (b) (6), (b) (7)(C) representing the National Mining Association (NMA) (b) (6), (b) (7)(C), and the EPA Office of Inspector General, except for (b) (6), (b) (7)(C) and the OIG Special Agents who conducted the interview, the names of all other participants are omitted from this report.

On October 11, 2018, Special Agent (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Office of Investigations (OI), Office of Inspector General (OIG), Environmental Protection Agency (EPA), conducted a telephonic interview of NMA07. The interview was conducted in reference to a fact-finding inquiry pursuant to a congressional request to "develop a comprehensive factual record for instances where possible violations of the Antideficiency Act and the publicity or propaganda and anti-lobbying provisions of the Consolidated Appropriations Act (CSA) of 2017, may have occurred, during an April 2017 meeting between former Administrator Pruitt and the National Mining Association (NMA)."

Present for the interview were: (b) (6), (b) (7)(C) NMA; a second NMA attorney; and two other attorneys representing NMA07.

Prior to commencing the interview, SA (b) (6), (b) (7)(C) reiterated the purpose of the interview. NMA07 was asked a total of 10 questions. [See attachment 1]. The following is a non-verbatim account of the responses NMA07 provided to the questions.

CASE:
OI-HQ-2018-ADM-0039
DATE OF ACTIVITY:
October 11, 2018

INTERVIEWEE (if applicable):
NMA07
DRAFTED DATE:
October 16, 2018

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 1 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.

During the initial stages of the interview, NMA07 stated (b) attended the April 24, 2017 meeting with former EPA Administrator Scott Pruitt. When asked if (b) recalled former Administrator Pruitt discuss the US withdrawal from the Paris climate accord, NMA07 said that (b) did not recall the specific issues former Administrator Pruitt discussed; however, (b) recalled former Administrator Pruitt discussing policies and mining, but nothing in specific. NMA07 was asked if during the speaking engagement former administrator Pruitt urged (b) to publicly support the US withdrawal from the Paris climate accord, (b) responded "no." When asked if any EPA employee asked (b) to publicly criticize the Paris climate agreement to pressure President Trump to withdraw from the accord, NMA07 answered "no."

NMA07 was asked if during the private meeting that former Administrator Pruitt had with the NMA (b) (6), (b) (7)(C), he asked (b) or the NMA to support the US withdrawal from the Paris climate accord, (b) responded "no." NMA07 also said that (b) was not asked by former Administrator Pruitt to pressure President Trump to withdraw from the Paris climate accord. Additionally, NMA07 stated that the meeting with former Administrator Pruitt did not influence (b) personal views, the views of (b) organization, or the views of the NMA concerning the Paris accord. (b) (6)

Attachment:

1. Interview questions/Undated



CASE:
OI-HQ-2018-ADM-0039
DATE OF ACTIVITY:
October 11, 2018

INTERVIEWEE (if applicable):
NMA07
DRAFTED DATE:
October 16, 2018

AGENT(S):
(b) (6), (b) (7)(C)

RESTRICTED INFORMATION
Page 2 of 2

This report and any attachments are the property of the EPA Office of Inspector General, Office of Investigations and is loaned to your agency. It and its contents may not be reproduced or disclosed without written permission. This report contains information protected by the Privacy Act and is FOR OFFICIAL USE ONLY. Disclosure of this report to unauthorized persons is prohibited. See 5 U.S.C. 552a.