




Memorandum

Date: October 5, 2022

Subject: INFORMATION: Challenges Facing DOT in Implementing the Infrastructure Investment and Jobs Act

From: Eric J. Soskin 
Inspector General

To: The Secretary

The Infrastructure Investment and Jobs Act (IIJA) authorized about \$660 billion in funding for new and existing U.S. Department of Transportation (DOT) programs for fiscal years 2022 through 2026¹—more than twice the amount in the previous 5-year authorization law.² As the Department is aware, the volume of IIJA funds, coupled with the creation of new programs and priorities, present a number of significant implementation and oversight challenges. Simultaneously, DOT faces a shifting macroeconomic landscape with regard to inflation, labor, and supply chain issues.

To support the Department in meeting its mission while promoting effective stewardship of significant taxpayer dollars, we identified key challenges and potential risks for DOT's consideration in bolstering its implementation and oversight of IIJA. This summary draws upon our office's and the Government Accountability Office's (GAO) prior work—including reviews of significant influxes of funds for economic stimulus and emergency relief³—as well as our

¹ The Infrastructure Investment and Jobs Act (IIJA) (Pub. L. No. 117-58; November 15, 2021) included about \$383 billion in contract authority—specified amounts that DOT can expend in each of the years covered by the law—and provided over \$184 billion in appropriations. The remaining approximately \$93 billion that Congress authorized in IIJA was subject to future appropriations. See exhibit A for a summary of IIJA contract authority and appropriations by DOT Operating Administration (OA).

² The Fixing America's Surface Transportation (FAST) Act of 2015 (Pub. L. No. 114-94; December 2015) authorized over \$305 billion for DOT programs over 5 years.

³ This work includes oversight related to the over \$48 billion DOT administered under the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5, February 17, 2009) and the about \$106 billion in COVID-19 relief funding provided to DOT through the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (Pub. L. No. 116-136; March 27, 2020), Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (Pub. L. No. 116-260; December 27, 2020), and American Rescue Plan of 2021 (Pub. L. No. 117-2; March 11, 2021). OIG reports are available on our website at www.oig.dot.gov.

conversations with senior officials in the Office of the Secretary of Transportation (OST) regarding the Department’s IIJA-related approach and progress to date.

Summary

DOT faces a number of significant challenges to successfully implement IIJA programs and use the appropriated funding to enhance our Nation’s infrastructure. First, the Department must effectively identify, assess, and develop plans to mitigate risks to achieving its goals—particularly the heightened risk of fraud. Second, DOT will need to recruit, develop, and retain the necessary workforce to implement and oversee IIJA programs, while also effectively coordinating with key stakeholders to overcome their immediate administrative challenges and mitigate risks they face amid broader economic challenges. For example, rising prices, supply chain challenges, and limited capacity across a range of industries could blunt IIJA impacts. Finally, DOT will need to enhance and, in some cases, establish effective and efficient processes for awarding and administering IIJA grants and overseeing grantees’ compliance with Federal requirements. We remain committed to helping the Department by identifying and recommending actions to address these and other challenges through our audits and investigations.

Challenges Facing DOT’s IIJA Implementation

1. Identifying and mitigating risks

- » Assessing increased risks of fraud, such as disadvantaged business enterprise fraud
- » Understanding risks for unique policy or financing arrangements

2. Meeting workforce and coordination needs

- » Acquiring and maintaining a skilled workforce
- » Coordinating with critical stakeholders (e.g., other Federal agencies, State and local government partners)
- » Addressing the impact of limited industry capacity and rising prices

3. Awarding, administering, and overseeing billions in grants

- » Establishing clear IIJA application and award processes
- » Developing and maintaining oversight procedures
- » Monitoring financial data and responding to non-compliances



FY 2022–26
IIJA timeframe



\$660 billion
total IIJA
transportation funds



\$383 billion
contract authority



\$184 billion
appropriations for DOT
programs

Source: OIG analysis of IIJA; published reports, memoranda, and articles; and DOT-provided information

Managing Risks Will Be Fundamental to Achieving IIJA Goals

Effective risk management will be critical to the Department’s ability to successfully achieve Congress’ intent and the Administration’s goals in implementing the wide variety of programmatic changes called for in IIJA. To this end, the *Standards for Internal Control in the Federal Government*⁴ direct agencies to define program goals, objectives, and risk tolerances and to identify and assess risks that may affect the agency’s ability to meet its program goals and objectives.

With the passage of IIJA, the White House Infrastructure Implementation Team worked with agencies on defining quantitative infrastructure implementation goals. See the table below for the IIJA goals identified for DOT in March 2022.

Table. White House Infrastructure Implementation Team’s IIJA Goals for DOT

Commitment	Agency	Timeframe
Over the next year, States, territories, Tribes, and local governments will start to improve 65,000 miles of roads and 1,500 bridges.	DOT	1 year
Invest in over 600 airport infrastructure projects, including preserving 400 pavement projects on taxiways and runways.	DOT	1 year
Invest in an estimated 15,000 new buses, ferries, and subway cars.	DOT, EPA	1 year
Invest in 75 new, Made-in-America locomotives and at least 73 Made-in-America Intercity Trainsets.	DOT, Amtrak	1 year
Build 500,000 EV charging stations.	DOE, DOT	5 years

Source: White House Infrastructure Implementation Team Memorandum, March 2022

These goals reflect Congress’ intent for IIJA, which included creating jobs, supporting American manufacturing, returning transportation infrastructure to a state of good repair, and providing dedicated funding to rural areas. They also

⁴ GAO, *Standards for Internal Control in the Federal Government* (GAO Report No. GAO-14-704G), September 10, 2014.

respond to the President's priorities for IJJA implementation, established through an Executive Order,⁵ which included:

- investing efficiently and avoiding waste, and focusing on measurable outcomes;
- increasing the competitiveness of the United States economy, including through implementation of the IJJA's Buy America and Buy American requirements;
- improving job opportunities for Americans;
- investing equitably, including support for disadvantaged communities;
- building infrastructure that is resilient and helps combat climate change; and
- coordinating with State, local, Tribal, and territorial governments.

Fraud and waste risks will be particularly important for DOT to address as it implements IJJA, as these risks can substantially affect the Department's ability to meet established goals. IJJA also created new transportation investment programs and significantly expanded many existing ones, potentially increasing the risk of fraud and waste. This, in turn, can undermine the integrity of the Department's IJJA investments. For example, under IJJA, at least 10 percent of funds spent by DOT on surface transportation, transit, and highway safety research and development should be paid to small businesses owned and controlled by socially and economically disadvantaged individuals. However, recent research published by the American Society of Civil Engineers noted the particular pervasiveness of disadvantaged business enterprise (DBE) fraud in the construction industry. DBE fraud can diminish opportunities for legitimate DBEs, increase the resources spent on fraud investigations, and divert Federal funds from intended purposes.⁶ Our investigations have also highlighted DBE fraud as a key watch area for the Department. Over the last 5 years, OIG has investigated 98 allegations of DBE fraud, which resulted in over \$21 million in forfeitures, \$9 million in recoveries, \$6 million in restitution, 17 years of incarceration, and 34 years of probation.

DOT has acknowledged the importance of reducing fraud risks and has begun taking action to assess and mitigate such risks. For example, in its fiscal year 2023 budget submission, DOT described plans to require every program that received IJJA funding to have completed a fraud risk assessment by the end of fiscal year

⁵ Federal Register, *Executive Order 14052: Implementation of the Infrastructure Investment and Jobs Act*, November 15, 2021.

⁶ American Society of Civil Engineers, *Fraud and Abuse Schemes in the Disadvantaged Business Enterprise Program*, April 22, 2022.

2023. In addition, Department officials told us that the Operating Administrations (OA) are conducting organizational assessments, similar to those they conducted in the past when DOT was responsible for managing large increases in funding—such as from the American Recovery and Reinvestment Act of 2009 (ARRA) and COVID-19 relief funding. However, our work examining the Federal Transit Administration’s (FTA) COVID-19 relief funding oversight found that the Agency did not thoroughly identify the risks of fraud, waste, and abuse. Because fraud remains a critical risk for the Department to consider and address, our office recently announced an audit to examine the Department’s fraud risk assessment processes.⁷

The Department will also need to consider other risks beyond those associated with the potential for fraud, waste, and abuse. For example, unique policy requirements or financing arrangements—such as the phased funding agreements authorized in IJJA⁸—can also introduce risks that DOT OAs will have to understand, assess, and appropriately address. OAs may be able to build upon existing policies and procedures to appropriately address requirements for new recipients, programs, and policy priorities; achieve efficiencies; and maximize the success of the infrastructure investments authorized by IJJA. Regardless, careful and deliberate review and action will be required to manage potential risks.

Successful Delivery of IJJA Programs Will Require Addressing DOT Workforce and Stakeholder Capacity Challenges

Successful implementation of IJJA will require DOT to acquire and maintain sufficient staff and contractors with the required knowledge, skills, and abilities to achieve program goals. While DOT is augmenting its own workforce to meet IJJA demands, it is also critical in the early stages of IJJA to effectively coordinate with a variety of stakeholders. This includes developing strategies to mitigate immediate and longer-term risks arising from limited capacity among key public and private stakeholders and the economy as a whole.

Acquiring and Maintaining a Skilled DOT Workforce

DOT officials have acknowledged that the Department faces challenges in recruiting, developing, and retaining the necessary workforce to timely,

⁷ *Audit Initiated of DOT’s Fraud Risk Assessment Processes for Surface Transportation Programs* (OIG Project No. 22B3002S000), May 18, 2022.

⁸ The phased funding agreement provision in Section 22307 of IJJA authorizes FRA to make commitments to provide funding in future years subject to Congressional appropriations.

effectively, and efficiently implement IJA programs. They also emphasized that these are longstanding challenges—a conclusion with which we concur. In fact, our prior work examining DOT’s oversight of ARRA funding—which, like IJA, represented a large and sudden increase in funds under the Department’s stewardship—identified the capacity to manage the new workload as a significant challenge.⁹

Likewise, we identified improving the qualifications and training of staff who manage and oversee billions in COVID-19 relief funding as a top management challenge facing the Department in fiscal year 2022.¹⁰ For example, our prior work found that DOT contracting officers—who approved numerous contractual actions and obligated millions in Department funds—were not always in full compliance with certification and warrant requirements.¹¹ More recently,¹² we found nearly half of the Contracting Officer’s Representatives in our sample of the Federal Aviation Administration’s (FAA) acquisition workforce lacked required certifications. As a result, the Department may be putting Federal funds at risk by allowing its acquisition workforce to manage complex, costly, and mission-critical contracts without the required qualifications. This challenge is amplified as the Department moves expeditiously to commit billions of dollars in new IJA funds.

Department officials indicated that they have efforts underway to address some of these challenges. Based on workforce needs assessments that OAs conducted working with DOT’s and their individual Chief Financial Officer (CFO) and Human Resources (HR) offices, DOT has established a goal of hiring about 1,700 employees to respond to identified IJA needs over the next 5 years. DOT officials also noted that the planned hiring is not uniform relative to the OAs’ sizes—with some of the larger OAs hiring to fill relatively fewer new positions than some of the smaller OAs. (See exhibit B for additional information on each OA’s hiring goals and progress through June 2022.) DOT officials also stated they have ramped up information sharing among human resource professionals and worked to improve recruiting processes across the Department. For example, to help fill certain specialized positions that may pose a particular challenge to hire— such as environmental protection and grants management specialists— Department officials told us they worked with the Office of Personnel Management to establish direct-hire authority.¹³ In addition, DOT officials

⁹ *American Recovery and Reinvestment Act of 2009: Oversight Challenges Facing the Department of Transportation* (OIG Report No. MH2009046), March 31, 2009.

¹⁰ *DOT’s Fiscal Year 2022 Top Management Challenges* (OIG Report No. PT2022007), October 27, 2021.

¹¹ *Some Deficiencies Exist in DOT’s Enforcement and Oversight of Certification and Warrant Authority for Its Contracting Officers* (OIG Report No. ZA2015041), April 9, 2015.

¹² *FAA Faces Challenges in Tracking Its Acquisition Workforce and Ensuring Compliance With Training Certification, and Warrant Requirements* (OIG Report No. ZA2021037), September 27, 2021.

¹³ Direct-hire authority allows agencies to more quickly hire qualified applicants. It expedites hiring by eliminating rating and ranking, veterans’ preference, as well as typical selection procedures.

described efforts to market the entire Department as an employer of choice and enhance consistency and coordination among the OAs' human capital programs.

Workforce flexibilities may also play a role in hiring and retaining employees. Competition among employers for skilled workers has intensified across the United States, and recent Governmentwide surveys have indicated that most DOT employees would consider taking different positions if offered more workplace flexibilities or remote options elsewhere. As such, Department officials have described allowing the OAs flexibility to tailor human capital strategies to their needs, including the use of telework and remote work. Tension between competing priorities—such as a goal to establish a common DOT brand, while also allowing OAs flexibility to define policies that could put them in competition with each other for a limited pool of skilled workers—could undermine the effectiveness and efficiency of the Department's human capital initiatives.

Furthermore, as it works to increase hiring to meet needs created through IIJA, the Department will also need to consider its requirements beyond the 5-year authorization. Without certainty about future authorizations and appropriations, the Department will also need to carefully manage its workforce to assure that it is right-sized for its workload after IIJA expires, as some of the IIJA-funded projects will likely continue beyond the legislative expiration.

Coordinating With Critical Stakeholders To Meet IIJA Requirements and Goals

The Department will likely also face immediate challenges coordinating with other Federal agencies and non-Federal stakeholders to implement IIJA programs. For instance, IIJA calls for DOT and the Department of Energy to establish a joint office to coordinate expertise in both Departments to support the implementation of multiple programs for developing a network of electric vehicle chargers, zero-emission fueling infrastructure, and zero-emission transit and school buses. However, DOT does not have significant experience in large-scale coordination with other Federal agencies regarding this topic, which means that as the Department is standing up that new office, it will need to simultaneously establish and implement coordination processes. Our prior work has shown that DOT faced challenges even coordinating internally when establishing new offices. For example, in 2016, the Build America Bureau was created within DOT¹⁴ to serve as a single point of contact and coordination within the Department for a variety of financing program activities. However, we reported that clarifying the roles and responsibilities for oversight of public-private partnership projects presented significant coordination challenges between the Federal Highway Administration (FHWA) and the Build America

¹⁴ The Build America Bureau was created through an Executive Action in accordance with the FAST Act.

Bureau.¹⁵ For the new joint office created under IIJA, effectively leveraging the expertise that each Department brings while assuring that the joint office establishes efficient processes will require sustained focus.

In order to maximize the benefits of IIJA infrastructure investments, the Department will also need to remain cognizant of the challenges that non-Federal partners face and develop strategies to coordinate with those partners to mitigate risks. For example, State and local governments—often the primary recipients of Federal infrastructure investments—are facing historic shortages of workers with expertise in important areas, such as auditing, procurement, and acquisitions.¹⁶

The Department has demonstrated that it is mindful of these challenges and has begun taking action. For example, the Department has established the Key Notices of Funding Opportunity (NOFO) Calendar to allow potential applicants additional time to prepare applications as they can better anticipate the notices. Notably, in March 2022, the Department announced a combined NOFO for three major discretionary programs with the intent to streamline the application process for communities by allowing them to apply for funding under multiple programs with a single application and common criteria. In addition, with IIJA's expanded funding for DOT's technical assistance programs, DOT officials said that the Department plans to address limited capacity among State, local, and tribal governments by building on technical assistance that it provides through the Build America Bureau, such as by partnering with other Federal agencies and philanthropies. The officials said the goals of this assistance include ensuring that potential applicants are aware of programs, that applicants can apply and compete fairly for awards without an overwhelming technical burden, and that recipients develop enhanced capability to execute awarded projects. The Department also described appointing a senior advisor dedicated to coordinating technical assistance and launched a DOT Navigator website to provide State, local, and tribal governments with a one-stop shop to access information on Federal funding.

While the planned technical assistance may help enhance stakeholders' capacity, the Department may face challenges in administering this assistance through the Build America Bureau, as described. For example, GAO's open recommendations related to the Build America Bureau—including those regarding filling vacancies and prioritizing work to carry out its multiple existing responsibilities—indicate

¹⁵ *FHWA Needs To Clarify Roles and Processes for Approving and Monitoring Public-Private Partnerships* (OIG Report No. ST2019019), March 6, 2019.

¹⁶ Brookings Institute, *Modernizing American Infrastructure Requires People and Procurement, Not Just Dollars*, November 2021.

the Bureau may not yet have the capacity needed to carry out the additional efforts the Department has described.¹⁷

Addressing the Impact of Limited Industry Capacity and Rising Prices on IIJA Investments

Shortages of skilled workers in the construction trades could affect recipients' abilities to deliver successful projects on time and on budget. The National Infrastructure Advisory Council concluded in a 2021 report that the United States is ill-equipped to ensure a skilled workforce for its critical infrastructure.¹⁸ IIJA could exacerbate existing transportation workforce challenges because additional Federal spending will put significant pressure on both the public and private sector to add skilled workers to deliver a range of capital projects. As a step towards addressing this challenge, the Department and OAs have undertaken workforce development projects to support transportation industry efforts to recruit and retain employees. These include the Department's recent \$8 million grant to Amtrak to establish a 3-year mechanical training program and MARAD's Domestic Maritime Workforce Training and Education (DMWTE) Centers of Excellence initiative. If successful, these projects might serve as templates for similar efforts to address worker shortages in other transportation trades.

Another related challenge, and one that the Department has identified, is that many funding recipients are receiving low numbers of bids for projects, which can increase costs. Indeed, our 2012 audit of ARRA-funded FHWA contracts showed that even minimal increases in the number of bids received could have a significant impact on project costs. Prices for contracts with one or two bids averaged 11 percent higher than prices for contracts with three bids—resulting in a total projected price difference of at least \$179 million.¹⁹ As a tool to help recipients address this challenge, Department officials have also identified providing enhanced technical assistance to recipients.

Many sources have also cited that the rising prices of critical construction materials will likely blunt the impact of IIJA investments. Rising prices can result in the need for contract specification modifications—known as change orders—to reflect higher costs. Change orders can also affect project schedule, design details, specification requirements, or a combination of these key elements. In a recent review, we found that FHWA could enhance access to available data, improve its methodology for reviews of compliance results, and improve

¹⁷ GAO, *Surface Transportation: Action Needed to Guide Implementation of Build America Bureau and Improve Application Process*, March 2019.

¹⁸ National Infrastructure Advisory Council, *Workforce and Talent Management Study*, September 2021.

¹⁹ *Lessons Learned From ARRA: Improved FHWA Oversight Can Enhance States' Use of Federal-aid Funds* (OIG Report No. ZA2012084), April 5, 2012.

communication of definitions and responsibilities for overseeing change orders occurring on Federal-aid Highway Program projects.²⁰

In addition, the limited capacity of some critical American industries, such as the electric vehicle equipment industry, may inhibit the ability of IJJA funding recipients to comply with IJJA's domestic sourcing requirements.²¹ In part to address these concerns, the Department recently established a 6-month waiver of IJJA's domestic content sourcing requirements for construction materials—a category of goods receiving domestic content sourcing preference—to allow OAs, States, and private industry to prepare for the inclusion of this new category of materials. Due to ongoing rising costs and delivery delays, transportation industry stakeholders have asked for a further extension of the waiver, which expires in November 2022. In addition, these stakeholders requested that DOT conduct an analysis of domestic manufacturing capabilities that would include input from the public. They also called on the Department to provide the public and private sectors sufficient time to adjust to new domestic sourcing requirements. In July 2022, DOT issued a Request for Information to gather input from interested stakeholders and the public on how the new requirement should be implemented and interpreted, the availability of construction materials in the United States that are commonly used on transportation projects, and the potential impacts on DOT-funded projects.

Further, after the Department considers the responses to the July 2022 Request for Information and the domestic sourcing waiver expires, the Department and its non-Federal partners may still face challenges to maximize the benefits of IJJA investments while also meeting statutory domestic content sourcing requirements. For instance, we reported last year that FAA did not always award and administer contracts in accordance with the domestic content laws, such as ensuring contracts included required vendor certifications to validate domestic content and prevent the Agency from purchasing unauthorized foreign supplies.²² As a result, DOT cannot assure Congress and the public that it is spending taxpayer dollars on U.S.-made supplies and products in accordance with the law. Ensuring that projects meet IJJA's goals and domestic supply requirements amidst these challenges will likely require extensive outreach to the private sector and additional collaboration with and oversight of Federal funding recipients.

²⁰ *Opportunities Exist for FHWA To Strengthen Its Oversight of Contract Change Orders Under the Federal-aid Highway Program* (OIG Report No. ST2022031), July 20, 2022.

²¹ Funds made available for a Federal financial assistance program for infrastructure may only be obligated when all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States. We refer to these as domestic content or domestic sourcing requirements. IJJA also updated several domestic content requirements applicable to Federal contracts. See Pub. L. No. 117-58, § 70921(c); 87 FR 12780 (Mar. 7, 2022).

²² *Gaps in Guidance, Training, and Oversight Impede FAA's Ability To Comply With Buy American Laws* (OIG Report No. ZA2021026), June 2, 2021.

DOT has acknowledged these challenges and stated it is working with external stakeholders and other Federal agencies to help address workforce shortages and project cost increases. In addition to the initiatives already highlighted, the Department described increasing resources and support for large, complex projects; convening stakeholders; disseminating best practices; and participating in the White House's Talent Pipeline Challenge initiative. This initiative seeks to enhance partnerships between the Federal Government and stakeholders, such as employers and training providers, to support equitable workforce development in critical infrastructure sectors.

Enhanced Award, Administration, and Oversight Processes Can Help Address IJA Project Challenges

Successful delivery of IJA results will depend on implementing effective and efficient award, administration, and oversight processes. Yet our office's and GAO's prior work indicate that the Department may face challenges developing sufficient direction for applicants, recipients, and program staff, as well as assuring their adherence to the Department's guidance, policies, and procedures. In addition, as the ARRA experience demonstrated, establishing new programs and monitoring numerous recipients of a substantially larger volume of funds present a variety of risks and challenges.

Establishing Clear IJA Application and Award Processes

Congress appropriated funds for 15 new discretionary grant programs through IJA and made significant changes to existing programs. For each of the new programs, DOT OAs will need to establish clear application, review, and award selection processes, while responding to the changes in existing programs that IJA and the related Executive Order introduced. Developing such processes for grant and loan programs has been a challenge for the Department and its OAs in the past. For example, GAO identified improvements needed in the Department's guidance to applicants provided through the NOFOs for Nationally Significant Multimodal and Freight & Highway Projects grants, also known as Infrastructure for Rebuilding America (INFRA) grants.²³ However, DOT has not yet completed actions to address a number of GAO's recommendations, including those for evaluating INFRA grant applications, assuring consistency in following up with applicants for additional information, and improving transparency and

²³ GAO, *Discretionary Transportation Grants: DOT Should Clarify Application Requirements and Oversight Activities*, April 2022.

communication of award decisions.²⁴ In another example, we found in 2020 that MARAD's policy for implementing the Title XI loan application review process did not cover all statutory and regulatory requirements and that the Agency lacked procedures to ensure that staff fully comply with application review requirements.²⁵ MARAD has not yet completed actions to fully address our review's three recommendations, which were directed at improving the Agency's policies, procedures, and staff compliance with loan application review requirements.

DOT took a positive step to address this challenge by issuing interim guidance for discretionary grant and other priority programs in June 2022. This guidance provides OAs clarity on steps that must be taken to develop selection criteria and evaluation plans, publish the NOFO, evaluate applications, make selections, notify Congress, and issue press releases as part of a coordinated rollout. The guidance also provides direction on incorporating newer or less established priorities and goals into discretionary grant program selection criteria and other programs. These include climate change and sustainability, equity and barriers to opportunity, and labor and workforce issues—as well as rural considerations and other administrative and policy requirements as appropriate and consistent with applicable Executive Orders. Consistent implementation of this guidance, backed by transparent decision making and documentation, will be critical to achieving these goals.

Developing and Maintaining Oversight Procedures

As the Department works to establish new IJA investment programs and revise others, it will need to ensure that appropriate and sufficient policies and procedures are in place to monitor recipients' compliance with Federal requirements, including for payment eligibility, and follow up on identified issues. For example, FHWA and FTA will have to maintain focus in reviewing additions and revisions to statewide transportation improvement programs (STIP) and local transportation improvement programs, which identify proposed transportation projects, timeframes for completing projects, and realistic funding sources. These steps will help assure that recipients adhere to Federal requirements in their project selections as the financing for additional projects expands.²⁶ Given the

²⁴ GAO, *Discretionary Transportation Grants: DOT Should Take Actions to Improve the Selection of Freight and Highway Projects*, November 2017; and GAO, *Discretionary Transportation Grants: Actions Needed to Improve Consistency and Transparency in DOT's Application Evaluations*, June 2019.

²⁵ *MARAD's Policy and Procedures for the Title XI Program's Application Review Process Do Not Ensure Full Compliance With Requirements* (OIG Report No. ST2020038), July 8, 2020.

²⁶ *Final Report on DOT's Implementation of the American Recovery and Reinvestment Act: Continued Management Attention Is Needed to Address Oversight Vulnerabilities* (OIG Report No. MH2010024), November 30, 2009.

role of STIPs in executing IJA projects, in June 2022, we announced an audit of FHWA's oversight of STIPs for IJA-funded work.²⁷

In addition, our prior work showed that OAs have been challenged to maintain complete and up-to-date procedures for their employees' use in administering and overseeing programs. In 2015, we reported that the majority of MARAD's policies and procedures—which provide management controls for program implementation and direction for program staff—were out of date, and in some instances had not been updated in decades.²⁸ Nearly 7 years later, our recommendation that MARAD update its existing policies and procedures in accordance with established timelines remains open, indicating a persistent management issue. Similarly, FHWA has not yet completed actions to address recommendations we made in March 2019 for improving guidance to Agency staff and external stakeholders with respect to risk identification and oversight of public-private partnership projects. This is of particular concern given opportunities to use IJA funding for public-private partnerships, which present unique risks but could also leverage private sector funding to extend the impact of Federal investments.

Our audits have also identified challenges in DOT's oversight procedures related to monitoring recipient-reported data. These include assuring data validity and reliability and using data to monitor recipients' compliance with Federal requirements, including cost eligibility. For example, in 2020, we reported that FRA could not reasonably assure that the California High Speed Rail Authority's requests for reimbursement complied with all Federal requirements because the Agency did not have procedures for reviewing grantees' processes for certifying expenditures, verifying whether billed costs in sampled invoices were reasonable or appropriate, or following up on findings and recommendations from oversight bodies.²⁹ In 2019, we reported that the Office of the Assistant Secretary for Research and Technology did not routinely direct grantees to provide support showing that their cost reimbursement requests were reasonable or allowable.³⁰ Similarly, in our recent work on FAA's oversight of Coronavirus Aid, Relief, and Economic Security (CARES) Act grants, we identified that the Agency modified policy to expedite review and payments by reducing supporting documentation requirements.³¹ This change impacted the ability to assess eligibility and validity.

²⁷ *Audit Initiated of Assessment of FHWA's Oversight of States' Use of STIPs That Include IJA-Funded Projects* (OIG Project No. 22B3001S000), June 22, 2022.

²⁸ *Weaknesses in MARAD's Management Controls for Risk Mitigation, Workforce Development, and Program Implementation Hinder the Agency's Ability To Meet Its Mission* (OIG Report No. ST2016011), December 10, 2015.

²⁹ *Improved FRA Decision Making and Financial Oversight Processes Could Have Reduced Federal Risks From the California High-Speed Rail Project* (OIG Report No. ST2020015), January 22, 2020.

³⁰ *Stronger Guidance and Internal Controls Would Enhance DOT's Management of Highway and Vehicle Safety R&D Agreements* (OIG Report No. ZA2019051), May 1, 2019.

³¹ *FAA Quickly Awarded CARES Act Funds but Can Enhance Its Oversight Approach To Promote Effective Stewardship* (OIG Report No. AV2022032), July 18, 2022.

As a result, we found \$3.3 million in improper payments—some of which FAA has since recovered. DOT and individual OAs have made substantial progress in addressing our recommendations from these and other reports; however, these examples highlight perennial issues in grant oversight. Going forward, DOT will be better positioned to mitigate risks of unsupported and improper payments through continued vigilance to existing internal controls and by establishing stronger internal controls where appropriate. Such controls may include adopting risk-based methodologies for closely reviewing recipients' procedures, reimbursement requests, supporting documents, and other recipient-reported information. These steps will help the Department assure that costs are reasonable and allowable.

Finally, the Department has faced challenges establishing clear direction on when and how to apply remedies and sanctions when it identifies instances of recipient noncompliance. For example, FRA has not yet completed actions to fully address our recommendation that it finalize and implement procedures to address instances of Amtrak's noncompliance with the cooperative agreements governing its use of DOT-provided Federal funds.³² Ensuring that sound policies and procedures for remedies and sanctions are in place across the Department will be critical for guiding OA staff in taking timely action to address noncompliance. Moreover, consistent and timely application of remedies and sanctions could result in recipients' improved compliance and project delivery.

Conclusion

IJA is one of the most significant and wide-ranging investments in our Nation's infrastructure in at least a generation. As such, it also presents significant implementation and oversight challenges, particularly in the midst of national workforce, manufacturing, and economic strains. To its credit, the Department acknowledges many of the challenges and risks we identified and is focused on identifying strategies that are both scalable—that is, they can be expanded to meet demand—and sustainable over time. Still, these strategies may take several years to design and fully implement.

In the meantime, the Department will need to enhance its risk management—especially with respect to fraud and waste—to identify vulnerabilities, adapt existing practices, and prioritize its use of resources. Likewise, the Department's perennial challenge to recruit, develop, and retain sufficient personnel with the right mix of skills while keeping an eye toward future needs takes on additional significance. Furthermore, DOT will require creativity and adaptability to

³² *Fully Implementing a Grants Management Framework Will Enhance FRA's Amtrak Oversight* (OIG Report No. ST2021027), June 30, 2021.

effectively coordinate with a range of stakeholders, leveraging the unique strengths and resources of each while also acknowledging the challenges that each faces. Finally, it will remain paramount that DOT maintain focus on continuous improvement of its processes for both new and existing financial assistance programs to manage awards throughout their lifecycle—from funding announcement to project closeout—to assure fairness in opportunities and accountability for resources and results. These and other steps will be key to meeting IJJA challenges, mitigating risks, maintaining stewardship over taxpayer dollars, and achieving the many expected benefits of IJJA's infrastructure projects.

We are committed to supporting the Department's efforts to maximize IJJA's investments. Working together, the Department and OIG can further identify risks, challenges, and areas for improvement. We appreciate the courtesies and cooperation of DOT representatives as we completed our work. If you have any questions, please contact me or Charles A. Ward, Assistant Inspector General for Audit Operations and Special Reviews.

cc: The Deputy Secretary
Modal Administrators
Assistant Secretaries
General Counsel
Secretarial Officers

Exhibit A. IIJA-Authorized Contract Authority and Appropriated Funding by Operating Administration

IIJA authorized up to approximately \$660 billion in funding for new and existing transportation programs for fiscal years 2022 through 2026, including about \$383 billion in contract authority, and provided over \$184 billion in appropriations, as shown in the table below.

Table A. IIJA Funding by Operating Administration (\$ in billions)

Operating Administration	Contract Authority	Appropriated
FAA	-	\$25.0
FHWA	\$303.5	\$47.3
FMCSA	\$4.5	\$0.7
FRA	-	\$66.0
FTA	\$69.9	\$21.3
MARAD	-	\$2.3
NHTSA	\$5.1	\$1.6
OST	-	\$19.0
PHMSA	-	\$1.0
Total	\$383	\$184.1

Source: OIG analysis of IIJA

Exhibit B. IJA Hires by Operating Administration

DOT officials from the Office of Human Resources Management told us that OAs conducted IJA workforce needs assessments, working with DOT and individual CFO and HR offices. They stated the OAs looked at funding levels and programs to determine the types of jobs to fill.

Table B. IJA Hires by Operating Administration, through June 2022

OA	PHASE 1: June 30, 2022 Goal	PHASE 1: Actual	PHASE 2: July 1 to September 30, 2022 Goal	PHASE 3: FY23 Goal	PHASE 4: FY24 and Beyond	Total Goal
FAA	166	154	55	133	0	354
FHWA	38	25	76	101	0	215
FMCSA	2	36	43	68	200	313
FRA	41	47	24	130	99	294
FTA	29	33	52	69	55	205
MARAD	6	11	27	2	0	35
NHTSA	10	16	30	60	90	190
OST	12	23	53	40	40	145
PHMSA	6	3	3	0	0	9
Total	310	348	363	603	484	1,760

Source: OIG analysis of DOT data