



OFFICE OF INSPECTOR GENERAL

U.S. ENVIRONMENTAL PROTECTION AGENCY

CUSTOMER SERVICE ★ INTEGRITY ★ ACCOUNTABILITY

Operating efficiently and effectively

The EPA's Fiscal Years 2020 and 2019 Toxic Substances Control Act Service Fee Fund Financial Statements

Report No. 23-F-0005

December 29, 2022



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Abbreviations: EPA U.S. Environmental Protection Agency
FY Fiscal Year
OIG Office of Inspector General
TSCA Toxic Substances Control Act

Cover Image: Samples in an EPA laboratory. (EPA image)

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Office of Inspector General U.S. Environmental Protection Agency **At a Glance**

23-F-0005
December 29, 2022

Why We Did This Audit

We performed this audit pursuant to the Frank R. Lautenberg Chemical Safety for the 21st Century Act, which amends the Toxic Substances Control Act. The Lautenberg Act requires the U.S. Environmental Protection Agency to prepare and the Office of Inspector General to audit the Toxic Substances Control Act Service Fee Fund financial statements each year. Our primary objectives were to determine whether:

- The financial statements were fairly stated in all material respects.
- The EPA's internal controls over financial reporting were in place.
- EPA management complied with laws and regulations.

The Toxic Substances Control Act requires that the fees the EPA charges be sufficient and not more than reasonably necessary to defray approximately 25 percent of the costs of administering specific sections of the Act.

This audit supports an EPA mission-related effort:

- *Operating efficiently and effectively.*

This audit addresses a top EPA management challenge:

- *Managing business operations and resources.*

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[List of OIG reports.](#)

The EPA's Fiscal Years 2020 and 2019 Toxic Substances Control Act Service Fee Fund Financial Statements

The EPA Receives a Qualified Opinion

We rendered a qualified opinion on the EPA's fiscal years 2020 and 2019 Toxic Substances Control Act, or TSCA, Service Fee Fund financial statements, meaning that, except for material errors in expenses and income from other appropriations, the fiscal years 2020 and 2019 financial statements were fairly presented.

We found the fund's financial statements, except for expenses and income from other appropriations, to be fairly presented.

Material Weakness Noted

The EPA materially understated the fiscal year 2019 "Expenses from Other Appropriations" line item of the financial statements by nearly \$25 million.

Compliance with Applicable Laws, Regulations, Contracts, and Grant Agreements

We did not identify any instances of noncompliance that would result in a material misstatement to the audited financial statements.

Other Governmental Reporting Requirements

During our user fee analysis, we found that the TSCA fee structure in the fees rule during fiscal years 2020 and 2019 appeared reasonable based on the data available when the EPA developed the fees rule. However, the TSCA fees collected did not adequately offset the fiscal years 2020 and 2019 actual or projected costs of administering certain provisions of TSCA, primarily because there were fewer fee-triggering activities than the EPA had projected for that period.

Recommendation and Planned Agency Corrective Actions

We recommend that the chief financial officer correct the methodology for accounting for TSCA direct and indirect expenses from other appropriations to ensure that all costs for administering sections 4 and 5, parts of section 6, and section 14 of the Act are properly recorded and reported in the financial statements. The EPA agreed with our recommendation and provided acceptable planned corrective actions. This recommendation is resolved with corrective actions pending.



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

OFFICE OF
INSPECTOR GENERAL

December 29, 2022

MEMORANDUM

SUBJECT: The EPA's Fiscal Years 2020 and 2019 Toxic Substances Control Act Service Fee Fund
Financial Statements
Report No. 23-F-0005

FROM: Damon Jackson, Director *Damon M. Jackson*
Financial Directorate
Office of Audit

TO: Faisal Amin, Chief Financial Officer

Michal Ilana Freedhoff, Assistant Administrator
Office of Chemical Safety and Pollution Prevention

This is our report on the subject audit conducted by the U.S. Environmental Protection Agency Office of Inspector General. The project numbers for this audit were [OA-FY21-0406](#) and [OA-FY21-0349](#). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. Final determination on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The Office of the Chief Financial Officer and the Office of Chemical Safety and Pollution Prevention are responsible for the issues discussed in the report.

In accordance with EPA Manual 2750, your offices provided acceptable planned corrective actions and an estimated milestone date in response to the OIG recommendation. The OIG recommendation is resolved, and no final response to this report is required. If you submit a response, however, 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.

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Inspector General's Report on the EPA's Fiscal Years 2020 and 2019 Toxic Substances Control Act Service Fee Fund Financial Statements

The Administrator
U.S. Environmental Protection Agency

Report on the Financial Statements

We have audited the accompanying financial statements of the U.S. Environmental Protection Agency's Toxic Substances Control Act Service Fee Fund. These statements comprise the balance sheets as of September 30, 2020, and September 30, 2019; the related statements of net cost and changes in net position; the statement of budgetary resources for the years then ended; and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America.¹ This includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial statements contained in *Government Auditing Standards*, issued by the comptroller general of the United States of America; and the Office of Management and Budget Bulletin 21-04, *Audit Requirements for Federal Financial Statements*. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

¹ *Management*, as used throughout this report, refers to the EPA's management.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Basis for Qualified Opinion

As discussed in Attachment 1, the EPA materially understated the fiscal year 2019 “Expenses from Other Appropriations” line item in the TSCA Service Fee Fund financial statements by nearly \$25 million. We found that the EPA’s methodology did not adequately capture all expenses for carrying out TSCA sections 4, 5, 6, and 14. The EPA’s material misstatement occurred because the Agency did not have an adequate methodology to accurately report the expenses incurred against other appropriations for TSCA Service Fee Fund activities. As the Agency’s methodology was the same for FYs 2020 and 2019, we concluded that the EPA was unable to provide an accurate total for expenses from other appropriations.

Qualified Opinion

In our opinion, except for the effects of the matter described in the “Basis for Qualified Opinion” paragraph, the financial statements and accompanying notes referred to above present fairly, in all material respects, the assets, liabilities, net position, net cost, changes in net position, and budgetary resources of the EPA’s TSCA Service Fee Fund as of and for the years ended September 30, 2020 and 2019, in accordance with accounting principles generally accepted in the United States of America.

Report on Internal Control over Financial Reporting

Opinion on Internal Control. In planning and performing our audit of the financial statements of the TSCA Service Fee Fund as of and for the years ended September 30, 2020 and 2019, in accordance with auditing standards generally accepted in the United States of America, we considered the fund’s internal control over financial reporting as a basis for designing our audit procedures that are appropriate in the circumstances for the purpose of expressing an opinion on the financial statements and to comply with the Office of Management and Budget’s audit guidance, but not to express an opinion on the effectiveness of the fund’s internal control. Accordingly, we do not express an opinion on the effectiveness of the fund’s internal control over financial reporting.

Material Weaknesses and Significant Deficiencies. Our consideration of the internal control was for the limited purpose of expressing an opinion on the fund’s financial statements and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies; therefore, such deficiencies in internal control may exist that were not identified during our audit. A **deficiency** in internal control over financial reporting exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A **material weakness** is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented or detected and corrected on a timely basis. A **significant deficiency** is a deficiency, or a combination of deficiencies, in internal control over financial reporting that is less severe than a material weakness yet important enough to merit attention by those charged with governance.

Because of inherent limitations in internal control, misstatements, losses, or noncompliance may nevertheless occur and not be detected. We noted one matter, which we discuss below, involving

internal control and its operation that we consider to be a recurrent material weakness. This weakness is summarized below and described in more detail in Attachment 1.

Material Weakness

The EPA Misstated TSCA Expenses from Other Appropriations

The EPA materially understated the FY 2019 “Expenses from Other Appropriations” line item in the TSCA Service Fee Fund financial statements by nearly \$25 million. The federal government’s internal control standards require management to process information to ensure that it is “appropriate, current, complete, accurate, accessible, and provided on a timely basis.” The EPA’s material misstatement occurred because the Agency did not have an adequate methodology to accurately report the costs incurred against other appropriations for TSCA Service Fee Fund activities. Material errors affect the credibility of the EPA’s TSCA financial statements and reduce the confidence that the public and other interested parties have in them to be a fair representation of the TSCA Service Fee Fund program’s financial condition and activity.

Attachment 2 contains the status of recommendations reported in prior years’ reports on the fund’s financial statements. The material weakness issue included in Attachment 2 continues to be a material weakness for FYs 2019 and 2020, as described in the preceding paragraph. We reported less significant internal control matters to the Agency during the audit. We will not issue a separate management letter.

Comparison of the EPA’s Federal Managers’ Financial Integrity Act Report with Our Evaluation of Internal Control

Office of Management and Budget Bulletin 21-04 requires us to compare material weaknesses disclosed during the audit with those material weaknesses reported in the Agency’s Federal Managers’ Financial Integrity Act report that relate to the financial statements. We are also required to identify material weaknesses disclosed by the audit that were not reported in the Agency’s report. The Agency’s report is prepared and submitted at the consolidated level, of which the TSCA Service Fee Fund is a component. Accordingly, there are no findings to report at the TSCA Service Fee Fund level.

Report on Compliance with Laws, Regulations, Contracts, and Grant Agreements

EPA management is responsible for complying with laws, regulations, contracts, and grant agreements applicable to the Agency and the fund. As part of obtaining reasonable assurance about whether the fund’s financial statements are free of material misstatement, we performed tests of the Agency’s compliance with certain provisions of laws, including those governing the use of budgetary authority, regulations, contracts, and grant agreements that have a direct effect on the determination of material amounts and disclosures in the fund’s financial statements.

Opinion on Compliance with Laws, Regulations, Contracts, and Grant Agreements

Providing an opinion on compliance with certain provisions of laws, regulations, contracts, and grant agreements was not an objective of our audit, and accordingly, we do not express such an opinion.

We did not identify any instances of noncompliance that would result in a material misstatement to the audited financial statements.

Other Governmental Reporting Requirements

Specific Audit Requirements of the Frank R. Lautenberg Chemical Safety for the 21st Century Act

The Frank R. Lautenberg Chemical Safety for the 21st Century Act, which amended TSCA, requires the Office of Inspector General to perform an analysis of the (1) fees collected and amounts disbursed, (2) reasonableness of the fees in place to meet current and projected costs, and (3) number of requests for a risk evaluation made by manufacturers. The results of our analyses follow.

Fees Collected and Disbursed

The EPA began collecting TSCA service fees in October 2018. As TSCA requires, the EPA deposited fee collections into the TSCA Service Fee Fund. The EPA received approximately \$2.7 million and \$5.5 million in total fee collections in FYs 2019 and 2020, respectively. Pursuant to annual appropriations legislation, the EPA is required to reduce TSCA Service Fee Fund appropriations that Congress provided by the amount of offsetting collections. If collections exceed appropriations, the Agency deposits the excess collections into the TSCA Service Fee Fund. For both FYs 2019 and 2020, the Agency received \$5 million in appropriated funds. The Agency reimbursed the U.S. Department of Treasury from TSCA fees collected to offset the amount Congress previously appropriated. There were no funds disbursed from the TSCA Service Fee Fund during this period.

Reasonableness of the Fees in Place to Meet Current and Projected Costs

TSCA authorizes the EPA to set fees at levels such that the fees will, in aggregate, provide a sustainable source of funds to annually defray the lower of (1) 25 percent of the costs to the EPA of carrying out sections 4, 5, and 6—other than the costs to conduct and complete manufacturer-requested risk evaluations that must be defrayed at higher specified percentages—and of collecting, processing, reviewing, providing access to, and protecting from disclosure information on chemical substances as appropriate under section 14 or (2) \$25 million.

The EPA finalized the Fees for the Administration of the TSCA rule in October 2018, which established fees and fee categories for FYs 2019, 2020, and 2021 and explained the methodology by which fees were determined.² For FYs 2019 through 2021, the Agency estimated annual costs of carrying out TSCA sections 4, 5, 6, and 14, as described in the preceding paragraph, to be approximately \$80.2 million. This estimate was based on the EPA's calculated cost of implementation. The EPA estimated the total fee collections by multiplying the fees by the number of expected fee-triggering events in each category under full implementation, excluding fees for manufacturer-requested risk evaluations.

The EPA is required to adjust the fee rates every three years. Table 1 describes the fees per category that were effective during FYs 2019, 2020, and 2021.

² See 83 Fed. Reg. 52,694 (Oct. 17, 2018).

Table 1: Fees by fee category for regular and small businesses

Section	Fee category	Final fee	Small business fee
4	Test order	\$9,800	\$1,950
	Test rule	\$29,500	\$5,900
	Enforceable consent agreement	\$22,800	\$4,600
5	PMN and consolidated PMN, SNUN, MCAN and consolidated MCAN	\$16,000	\$2,800
	LoREX, LVE, TME, Tier II exemption, TERA, Film Articles	\$4,700	\$940
6	EPA-initiated risk evaluation	\$1,350,000	\$270,000
	Manufacturer-requested risk evaluation on a chemical included in the TSCA Work Plan	Initial payment of \$1,250,000, with final invoice to recover 50% of total actual costs	
	Manufacturer-requested risk evaluation on a chemical not included in the TSCA Work Plan	Initial payment of \$2,500,000, with final invoice to recover 100% of total actual costs	

Note: PMN = Premanufacture Notice; SNUN = Significant New Use Notice; MCAN = Microbial Commercial Activity Notice; LoREX = Low Releases and Low Exposures Exemption; LVE = Low Volume Exemption; TME = Test Marketing Exemption; TERA = TSCA Experimental Release Application.

Source: FY 2019 through FY 2021 fee rates published in the EPA's fees rule. (EPA OIG table)

During our user fee analysis, we found that the TSCA fee structure in the fees rule during FYs 2019 and 2020 appeared reasonable based on the data available when the EPA developed the fees rule. However, the fees collected did not adequately offset the actual or projected costs of administering the provisions of TSCA.

The fees collected in FYs 2019 and 2020 did not meet the intent of TSCA to defray 25 percent of the specified costs of carrying out sections 4 and 5, parts of section 6, and section 14. The EPA anticipated collecting approximately \$20 million, which represented around 25 percent of its estimated costs of \$80.2 million. However, during FYs 2019 and 2020, the EPA collected relevant TSCA service fees totaling significantly less: approximately \$2.7 million and \$3 million, respectively.³ This difference largely occurred because the EPA overestimated the number of actions that would trigger fees in the TSCA fees rule.

During FYs 2019 and 2020, the EPA collected TSCA fees only for section 5 activity, which requires that manufacturers and processors provide the EPA with notice before initiating the manufacture of a new chemical substance or initiating the manufacture or processing of a chemical substance for a significant new use. However, the number of section 5 fee-triggering actions during both fiscal years was significantly lower than the projected number in the TSCA fees rule, as illustrated in Table 2.

³ The EPA collected \$5.5 million in TSCA service fees for FY 2020, but \$2.5 million of that was for manufacturer-requested risk evaluations. Under TSCA, manufacturer-requested risk evaluation fees are to defray from 50 percent to 100 percent of the actual costs of conducting risk evaluations under section 6(b) and are not included in the 25 percent requirement. Therefore, the EPA collected \$3 million in TSCA service fees relevant to the 25 percent requirement.

Table 2: Differences between actual and fees rule-estimated numbers of section 5 fee-triggering actions

Section 5 fee category	Actual number of net actions			Fees rule-estimated number of actions	Difference
	Regular	Small business	Total		
FY 2020					
PMN and consolidated PMN, SNUN, MCAN and consolidated MCAN	124	44	168	462	(294)
LoREX, LVE, TME, Tier II exemption, TERA, Film Articles	179	87	266	560	(294)
Total	303	131	434	1022	(588)
FY 2019					
PMN and consolidated PMN, SNUN, MCAN and consolidated MCAN	102	65	167	462	(295)
LoREX, LVE, TME, Tier II exemption, TERA, Film Articles	177	101	278	560	(282)
Total	279	166	445	1022	(577)

Note: PMN = Premanufacture Notice; SNUN = Significant New Use Notice; MCAN = Microbial Commercial Activity Notice; LoREX = Low Releases and Low Exposures Exemption; LVE = Low Volume Exemption; TME = Test Marketing Exemption; TERA = TSCA Experimental Release Application.

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

Number of Risk Evaluation Requests

The EPA received two manufacturer risk evaluation requests during FY 2019, which the EPA granted in FY 2020. The EPA received one manufacturer risk evaluation request during FY 2020, which the EPA granted in FY 2021.

Management’s Discussion and Analysis

Our audit was conducted for the purpose of forming an opinion on the TSCA Service Fee Fund financial statements as a whole. The “Management’s Discussion and Analysis” section is presented for the purpose of providing additional analysis and is not a required part of the basic financial statements. Such information is the management’s responsibility. We obtained information from the fund’s management about its methods for preparing the “Management’s Discussion and Analysis” section, and we reviewed this information for consistency with the financial statements.

Our audit was not designed to express an opinion, and accordingly, we do not express an opinion on the “Management’s Discussion and Analysis” section.

We did not identify any material inconsistencies between the information presented in the fund’s financial statements and the information presented in the “Management’s Discussion and Analysis” section.

Prior Audit Coverage

During our prior year TSCA Service Fee Fund financial statement audit, *Audit of EPA's Toxic Substances Control Act Service Fee Fund Financial Statements for the Period from Inception (June 22, 2016) through September 30, 2018*, Report No. [20-F-0342](#), issued September 30, 2020, we reported one material weakness: the EPA overstated expenses from other appropriations by \$8.4 million. We found that the EPA made errors in multiple iterations of its calculation for expenses from other appropriations.

We recommended that the Agency improve the management review process for calculating expenses from other appropriations and establish written policies and procedures so that expenses from other appropriations reflect actual costs. The Agency agreed with our recommendations and completed corrective actions on February 4, 2021. However, we continued to find material errors in the EPA's expenses from other appropriations during our FYs 2019 and 2020 audit.

Damon M. Jackson

Damon Jackson
Certified Public Accountant
Director, Financial Directorate
Office of Audit
Office of Inspector General
U.S. Environmental Protection Agency
December 8, 2022

Material Weakness

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The EPA Misstated TSCA Expenses from Other Appropriations 9

1 – The EPA Misstated TSCA Expenses from Other Appropriations

The EPA materially understated the FY 2019 “Expenses from Other Appropriations” line item in the TSCA Service Fee Fund financial statements by nearly \$25 million.⁴ The federal government’s internal control standards require management to process information to ensure that it is “appropriate, current, complete, accurate, accessible, and provided on a timely basis.” The EPA’s material misstatement occurred because the Agency did not have an adequate methodology to accurately report the expenses incurred against other appropriations for TSCA Service Fee Fund activities. Material errors affect the credibility of the EPA’s TSCA financial statements and reduce the confidence that the public and other interested parties have in them to be a fair representation of the TSCA Service Fee Fund program’s financial condition and activity.

TSCA, as amended, authorizes the EPA to establish and collect fees from chemical manufacturers and importers to defray a portion of the costs associated with:

- Administering TSCA sections 4, 5, and 6.
- Collecting, processing, reviewing, providing access to, and protecting information about chemical substances, as well as preventing disclosure of such information as appropriate under TSCA section 14.

Therefore, the Agency may charge some costs of implementing TSCA directly to the TSCA Service Fee Fund, up to specified limits, and the remainder of the costs to other Agency appropriations. The EPA records expenses from other appropriations to properly reflect the total costs incurred for the TSCA Service Fee Fund. Statement of Federal Financial Accounting Standards 4, *Managerial Cost Accounting Standards and Concepts*, states that “reporting entities should report the full costs of outputs in general purpose financial reports,” which include “costs of identifiable supporting services provided by other responsibility segments within the reporting entity, and by other reporting entities.”

The U.S. Government Accountability Office’s [GAO-14-704G](#), *Standards for Internal Control in the Federal Government*, known as the Green Book, sets internal control standards for federal entities. These standards require that federal agencies use quality information, including relevant data from reliable sources. Management is responsible for processing that data into quality information. The Green Book defines **quality information** as “information from relevant and reliable data that is appropriate, current, complete, accurate, accessible, and provided on a timely basis, and meets information requirements.”

The EPA materially misstated the expenses from other appropriations that supported the TSCA Service Fee Fund by nearly \$25 million. The EPA’s initial draft financial statements incorrectly reported that all \$63 million of the Office of Chemical Safety and Pollution Prevention’s expenses in the Chemical Risk Review and Reduction Program were TSCA Service Fee Fund expenses from other appropriations. TSCA Service Fee Fund activities are a subset of the Chemical Risk Review and Reduction Program and should not include expenses for activities unrelated to the fund. After we identified and asked about the errors,

⁴ This figure is based on \$19 million in expenses from other appropriations recorded in the FY 2019 draft financial statements that we received on March 1, 2022. The Agency subsequently provided the OIG with a third revised version of the draft financial statements on May 18, 2022, which included FY 2020 draft financial statements and reported TSCA expenses from other appropriations as \$30 million for FY 2019 and \$37.7 million for FY 2020.

we requested that the Agency provide its justification for costs included in expenses from other appropriations. The Agency acknowledged at that time that certain costs were improperly included in expenses from other appropriations. The Agency subsequently modified its methodology and revised the financial statements. The Agency’s revised methodology reduced TSCA expenses from other appropriations from approximately \$63 million to roughly \$19 million.

Upon further analysis, we found that the EPA’s revised methodology did not adequately capture all expenses for carrying out sections 4, 5, 6, and 14 of TSCA, hereafter referred to as “fee-related expenses.” Costs not captured included expenses funded prior to FY 2019, payroll expenses for employees working in direct-cost divisions, and additional indirect costs. These supplementary costs increased TSCA expenses from other appropriations to approximately \$44 million. Table 1-1 shows the TSCA fee-related direct and additional indirect expenses that were not included in the Office of the Chief Financial Officer’s revised methodology.

Table 1-1: TSCA fee-related expenses not included in the EPA’s revised methodology

Description	Expense amount
Revised expenses from other appropriations	\$19,040,316.02
Expenses not included in the Office of the Chief Financial Officer’s revised methodology	
TSCA section 5 expenses funded prior to FY 2019	(\$417,876.04)
Contract expenses funded prior to FY 2019	\$3,128,830.08
Interagency agreement information technology expenses funded prior to FY 2019	\$2,458,228.81
Additional payroll-related expenses for employees working in direct-cost divisions	\$16,077,534.53
Additional indirect costs	\$3,318,737.25
Total expenses not included in the revised methodology	\$24,565,454.63
Total TSCA expenses from other appropriations	\$43,605,770.65

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

Upon receiving our finding, the Agency agreed with the inclusion of all the costs that we identified except for the payroll costs. The Agency researched the functional duties for the direct-cost divisions and reviewed a random sample of one employee in each of the five direct-cost divisions. Based on its research, the Agency disagreed with the inclusion of the roughly \$16 million in payroll costs, stating that the work could not be exclusively tied to TSCA fee-related activities. Conversely, we analyzed the FY 2019 payroll data for 99 employees charging to other appropriations and asked those employees whether their work supported the specific provisions of TSCA. We found that multiple employees in direct-cost divisions reported working part- or full-time on the aforementioned TSCA provisions. Thus, we concluded that the Agency’s analysis was not comprehensive and did not justify excluding the approximately \$16 million in payroll costs. Therefore, the Agency was unable to provide an accurate total for expenses from other appropriations.

This error occurred because the EPA does not have an adequate methodology to properly record all costs for administering certain provisions of TSCA. The EPA must report the complete and accurate full cost of implementing TSCA because the Act requires that the service fees the EPA charges be sufficient to defray 25 percent of the costs associated with implementing key TSCA provisions. If the EPA does not accurately report TSCA service fee expenses from other appropriations, the Agency cannot develop reasonable fees that recover the amount of program expenses that the Act requires. Material errors affect the credibility of TSCA’s financial statements and reduce the confidence that the public and other

interested parties have in them to be a fair representation of the program's financial condition and activity.

Recommendation

We recommend that the chief financial officer, in conjunction with the assistant administrator for Chemical Safety and Pollution Prevention:

1. Correct the methodology for accounting for Toxic Substances Control Act direct and indirect expenses from other appropriations to ensure all costs for administering sections 4 and 5, parts of section 6, and section 14 of the Act are properly recorded and reported in the financial statements.

Agency Response and OIG Assessment

The Agency agreed with our recommendation. The Agency's estimated completion date for corrective actions is October 1, 2023.

Status of Prior Audit Report Recommendations

We identified a material weakness in our financial statement audit that remains outstanding, as described in Table 2-1.

Table 2-1: Prior recommendations from Report No. [20-F-0342](#) related to a material weakness that the Agency reported as resolved with corrective actions completed but that we found to be ineffective

<p>During our FY 2018 inception audit, we found that the EPA overstated expenses from other appropriations by \$8.4 million, having made errors in multiple iterations of its calculation.</p> <p>We recommended that the EPA (1) improve the management review process for calculating expenses from other appropriations to be consistent with EPA component financial statement audits and to ensure costs support the Toxic Substances Control Act Service Fee Fund activities and (2) establish written policies and procedures so that expenses from other appropriations in component audits reflect actual costs.</p> <p>The EPA agreed with our recommendations and certified completion of all corrective actions on February 4, 2021. However, we continued to find errors in the EPA's calculation of expenses from other appropriations during our FYs 2019 and 2020 audits, as detailed in Attachment 1. Therefore, the Agency's corrective actions were not effective.</p>

Source: OIG analysis of prior year recommendations, findings, and Agency corrective actions. (EPA OIG table)

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	11	Correct the methodology for accounting for Toxic Substances Control Act direct and indirect expenses from other appropriations to ensure all costs for administering sections 4 and 5, parts of section 6, and section 14 of the Act are properly recorded and reported in the financial statements.	R	Chief Financial Officer Assistant Administrator for Chemical Safety and Pollution Prevention	10/1/23	\$24,565

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

***Fiscal Years Ended September 30, 2020 and 2019
Toxic Substances Control Act Service Fee Fund
Financial Statements***

**Fiscal Year Ended September 30, 2020 and 2019
Toxic Substances Control Act (TSCA) Service Fee Fund
Financial Statements**



*Produced by the U.S. Environmental Protection Agency
Office of the Chief Financial Officer
Office of the Controller*

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Management's Discussion and Analysis

TSCA Implementation Activities: FY 2020

Background

Under the Toxic Substances Control Act (TSCA), as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (signed into law June 22, 2016)¹, EPA has significant responsibilities for ensuring the safety of chemicals in or entering U.S. commerce and addressing unreasonable risks to human health and the environment. These responsibilities are carried out by the Agency through the Chemical Risk Review and Reduction (CRRR) Program, which works to ensure the safety of:

- Existing chemicals², by collecting chemical data, prioritizing chemicals for risk evaluation, conducting risk evaluations, determining whether there are unreasonable risks, and developing and implementing risk management actions, where appropriate, to address any unreasonable risk posed by those chemical's manufacture, processing, use, distribution in commerce and/or disposal; and
- New chemicals³, by reviewing new chemical submissions from manufacturers and processors and taking action, as appropriate, to mitigate potential unreasonable risks to health or the environment before those chemicals can enter the marketplace.

Certain substances such as food, drugs, cosmetics, and pesticides are generally excluded from regulation under TSCA.

Among other key provisions, EPA has authority and/or responsibility under TSCA to:

- Under Section 5, review pre-manufacture notification for “new chemical substances”⁴ before manufacture or import of non-exempt new chemical substances; evaluate the potential risks to human health and the environment of the chemical under the conditions of use⁵ and make an affirmative determination on whether each new chemical substance, for which it received a notice under Section 5(a)(1), presents an unreasonable risk to human health or the environment.⁶ Where EPA determines that the new chemical, for example, may present an unreasonable risk, EPA must take action to prevent those risks before the chemical can enter commerce;⁷
- Under section 6, prioritize and evaluate the risks posed by existing chemicals and prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of a chemical if EPA concludes the chemical presents an unreasonable risk to human health or the environment;⁸
- Require, under Section 4, testing of chemicals by manufacturers, importers, and processors where necessary to help EPA determine whether a chemical presents an unreasonable risk to health or the environment;⁹
- Maintain the TSCA Inventory, under Section 8, which contains more than 83,000 chemicals. As new chemicals are commercially manufactured or imported, they are placed on the list;¹⁰
- Require those importing or exporting chemicals, under Sections 12(b) and 13, to comply with certification reporting and/or other requirements;¹¹
- Require, under Section 8, reporting and record-keeping by persons who manufacture, import, process, and/or distribute chemical substances in commerce;¹²

The 2016 TSCA amendments gave EPA significant new responsibilities:

- a) *Clear and enforceable deadlines.* EPA is required to systematically prioritize and evaluate existing chemicals on a specific schedule, complete specified numbers of chemical risk evaluations within specified time frames, undertake risk evaluations of chemicals at a manufacturer's request, complete risk management actions within specified time frames when warranted by the findings of the evaluations, and review and make determinations on TSCA Confidential Business Information (CBI) claims within specified time frames, among other actions.
- b) *Requirement to address risks.* When EPA determines that an existing chemical presents an unreasonable risk – a determination made on a pure risk-basis without consideration of costs or other non-risk factors - EPA is required to take timely action to address those risks by applying, through regulation, one or more of the requirements specified in TSCA Section 6(a), which can include: prohibiting or restricting the manufacture, processing, or distribution in commerce of the chemical substance or mixture for a particular use; limiting the amount of the substance or mixture that may be manufactured, processed, or distributed in commerce for a particular use; or imposing requirements affecting labeling, recordkeeping, or any manner or method of commercial use or disposal of the substance or mixture; to the extent necessary so that the chemical will no longer present an unreasonable risk.
- c) *Increased transparency of chemical data while protecting legitimate confidential information.* EPA is required to review all chemical identity TSCA Confidential Business Information (CBI) claims for certain types of submissions and for 25 percent of most other CBI claims within 90 days of receipt.
- d) *Requirement that EPA make a determination of safety for every new chemical before it is allowed to enter the marketplace.* Previously, new chemicals were allowed to enter the marketplace unless EPA made a specific determination that regulatory controls were needed. Within the mandated 90-day timeframe for review, EPA must make an affirmative determination on whether each new chemical substance, for which it received a notice under Section 5(a)(1), presents an unreasonable risk to human health or the environment under the conditions of use (i.e., the intended, known, and reasonably foreseen circumstances of manufacture, processing, distribution in commerce, use and disposal of the new chemical). Where EPA determines, for example, that the chemical substance may present an unreasonable risk, the Agency must issue an order or rule that imposes conditions sufficient to protect against any such unreasonable risk before the chemical can enter the marketplace.

Additionally, under TSCA section 26(b), the EPA is authorized to set fees that ensure a sustainable source of funding to annually defray up to 25 percent of the costs to the Administrator of carrying out TSCA sections 4, 5 and 6, and of collecting, processing, reviewing, providing access to, and protecting from disclosure, as appropriate, chemical information under TSCA section 14. The authority to assess fees is conditioned on annual appropriations for the CRRR Program, excluding fees, being held at least equal to the amount provided for FY 2014.

FY 2020 Progress on Implementation

In FY 2020, the Agency continued implementing the 2016 amendments for the TSCA chemical safety program.

New Chemical Review and Risk Management (TSCA Sec. 5):

Under TSCA Section 5, as amended, EPA is responsible for reviewing all new chemical submissions to determine whether the chemicals may pose unreasonable risk to human health or the environment upon entry into U.S. commerce and, where necessary, requiring restrictions or testing prior to allowing chemicals to be commercialized. In FY 2020 EPA completed new chemical reviews for Pre-Manufacture Notices (PMNs), Significant New Use Notices (SNUNs), and Microbial Commercial Activity Notices (MCANs), and 326 LVE/LoRex exemption requests. The agency issued SNURs for 203 substances. The agency also undertook several internal actions to improve process efficiency and timeliness in completing those reviews under TSCA's safety standards.

Chemical Prioritization and Risk Evaluation (TSCA Sec. 6):

In December 2016, EPA identified the first 10 chemicals to undergo EPA-initiated risk evaluation, meeting a key statutory deadline. Those chemicals are:

1. Asbestos (Part 1)
2. 1-Bromopropane
3. Carbon Tetrachloride
4. C.I. Pigment Violet 29 (PV29)
5. Cyclic Aliphatic Bromide Cluster (HBCD)
6. 1,4-dioxane
7. Methylene Chloride
8. N-Methylpyrrolidone (NMP)
9. Perchloroethylene
10. Trichlorethylene (TCE)

Through FY 2020, EPA completed the scoping and problem formulation stages of the multi-year risk evaluation process and issued the draft risk evaluations for all chemicals in this set. EPA completed final evaluations for the first 10 chemicals by January 2021.¹³ In June 2021, EPA announced its intention to reopen and to update the risk evaluation for 1-4-dioxane to consider including additional exposure pathways and conditions of use, and to further examine decisions to exclude exposure pathways for six of the other 10 chemicals. With some amendments, including review of assumptions related to use of personal protective equipment and revision of use-specific risk determinations to apply to the whole "chemical substance", the remaining three have been moved forward to the risk management stage.¹⁴

In December 2019, the EPA finalized the designations of the next 20 High Priority Substances to undergo evaluation and commenced the evaluations. The Agency released draft scope documents for each of these chemicals for public comment in March and April 2020 and finalized them in August and September 2020.¹⁵ Statutory timelines call for the EPA to publish final risk evaluations within three years of final designation, with a possible six-month extension. The EPA is striving to complete the risk evaluations as expeditiously as possible. Given the availability of resources, the compounding nature of the failure to adequately resource this activity since the 2016 amendments were signed into law as described below, and the additional work needed related to the first 10 chemicals, final risk evaluations likely will require more than three years and six months to complete.

Chemical Risk Management Actions (TSCA Sec. 6):

As required by TSCA, EPA initiated in FY 2017 development of proposed rules to address the risks of five persistent, bioaccumulative, and toxic chemicals (PBT) on the 2014 TSCA Work Plan.¹⁶ Rulemaking for these chemicals was fast-tracked under the law, mandating development of risk management actions without further risk assessment/evaluation. Proposed rules for all five chemicals were issued in FY 2019, and final rules were issued in December 2020, meeting the statutory deadline.¹⁷

In response to concerns raised after issuance of the final rules, EPA in September 2021 announced its intent to initiate a new rulemaking and anticipates proposing new rules addressing some of these PBT chemicals by the spring 2023. The current provisions of the final risk management rules remain in effect while EPA is working on the new rulemaking. The Agency also has extended the compliance dates for certain requirements.

Where risk evaluations under TSCA (either EPA-initiated or manufacturer-requested) result in unreasonable risk findings, EPA will initiate rulemaking under statutory timeframes to address unreasonable risks. Rulemakings will be necessary for the first 10 chemicals identified in December 2016 (completed between June 2020 and January 2021) and expected for some number of the next 20 chemicals identified in December 2019 for which risk evaluations are currently underway, and for an undetermined number of chemicals that may be evaluated thereafter, including those requested by manufacturers (of which two were initiated in FY 2020 and one was initiated in FY 2021).¹⁸ As described above, EPA is taking next steps on the first 10 chemicals.

Testing of Chemical Substances and Mixtures (TSCA Sec. 4):

TSCA Section 4 authorizes EPA to require testing of a chemical substance or mixture by manufacturers (including importers) or processors. The Agency issues test orders, test rules, and enforceable consent agreements as may be needed to support chemical risk prioritization, risk evaluation. The first TSCA Test Order was released in March 2020, with Orders for nine more chemicals issued in January 2021.¹⁹ EPA issued additional orders on eight of these chemical substances in March 2022 to address remaining data needs.

EPA will use its TSCA Section 4 authorities to protect human health and the environment from the potential risks of per- and polyfluoroalkyl substances (PFAS). EPA has developed a national testing strategy that will inform requiring PFAS manufacturers to provide the agency with toxicity data and information on categories of PFAS chemicals to inform future regulatory efforts.²⁰ EPA's initial set of test orders for PFAS will be strategically selected from more than 20 different categories of PFAS.

The TSCA amendments direct EPA to reduce and replace, to the extent practicable and scientifically justified, the use of vertebrate animals in the testing of chemical substances or mixtures, and to promote the development and timely incorporation of alternative test methods or strategies that do not require new vertebrate animal testing. In 2018, EPA met a statutory requirement to publish a Strategic Plan to promote development and implementation of alternative test methods. EPA has made significant progress on implementing near-term elements of the plan.²¹

Confidential Business Information (CBI) Review (TSCA Sec. 14):

EPA is required under TSCA Section 14 to review and make determinations on CBI claims contained in TSCA submissions. In FY 2020, EPA continued developing updated policies, regulations, and guidance to

EPA's FY 2020 Annual TSCA Financial Statements

4.

implement the amendments. On May 12, 2022, EPA proposed new and amended requirements relating to the assertion and maintenance of CBI claims under TSCA that, if finalized, would increase transparency, modernize reporting and review procedures, and ensure consistency with TSCA.²² EPA sent to submitters determinations on 783 cases and concluded that for 656 cases selected for review in FY 2020 no determination was necessary. Current total TSCA CBI review and determination statistics are available at <https://www.epa.gov/tsca-cbi/statistics-tsca-cbi-review-program>.

- ¹ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act>
- ² “Existing” chemicals are chemicals that were already in commerce when TSCA was enacted in 1976 or chemicals that have undergone PMN [Premanufacture Notice] review and are listed on the TSCA Inventory.” See <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/basic-information-review-new#>.
- ³ The term “new chemical substance” means any chemical substance which is not included in the chemical substance list compiled and published under section 8(b) of TSCA, i.e., the TSCA Inventory.
- ⁴ <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/actions-under-tsca-section-5>
- ⁵ The term “conditions of use” means the circumstances, as determined by the Administrator under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce used, or disposed of.
- ⁶ See <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/epas-review-process-new-chemicals>
- ⁷ <https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/actions-under-tsca-section-5#SNURs>
- ⁸ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/regulation-chemicals-under-section-6a-toxic-substances>
- ⁹ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/industry-testing-requirements-under-tsca-section-4>
- ¹⁰ <https://www.epa.gov/tsca-inventory/about-tsca-chemical-substance-inventory>
- ¹¹ <https://www.epa.gov/tsca-import-export-requirements>
- ¹² <https://www.epa.gov/chemical-data-reporting>
- ¹³ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/chemicals-undergoing-risk-evaluation>
- ¹⁴ <https://www.epa.gov/newsreleases/epa-announces-path-forward-tsca-chemical-risk-evaluations>
- ¹⁵ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/final-scope-documents-high-priority-chemicals>
- ¹⁶ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-work-plan-chemicals>
- ¹⁷ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/persistent-bioaccumulative-and-toxic-pbt-chemicals-under>
- ¹⁸ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/list-manufacturer-requested-risk-evaluations-under-tsca>
- ¹⁹ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tsca-section-4-test-orders#list>
- ²⁰ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/national-pfas-testing-strategy>
- ²¹ <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/alternative-test-methods-and-strategies-reduce>
- ²² <https://www.epa.gov/chemicals-under-tsca/epa-proposes-rule-update-confidential-business-information-requirements-under>

Principal Financial Statements

Principal Financial Statements

**U.S. Environmental Protection Agency
Toxic Substances Control Act Service Fee Fund
Balance Sheet
As of September 30, 2020 and 2019
(Dollars in Thousands)**

	2020	2019
ASSETS		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ <u>1,775</u>	\$ <u>4,348</u>
Total Intragovernmental	1,775	4,348
Total Assets	\$ <u>1,775</u>	\$ <u>4,348</u>
LIABILITIES		
Intragovernmental:		
Accounts Payable (Note 3)	\$ -	\$ 5
Other Liabilities (Note 4)	<u>11</u>	<u>40</u>
Total Intragovernmental	11	45
With the Public:		
Accounts Payable (Note 3)	54	52
Federal Employee Benefits Payable (Note 8)	348	197
Other Liabilities (Note 4)	<u>406</u>	<u>522</u>
Total With the Public:	<u>808</u>	<u>771</u>
Total Liabilities	\$ <u>819</u>	\$ <u>816</u>
NET POSITION		
Unexpended Appropriations - Funds from Other than Dedicated Collections	782	3,717
Cumulative Results of Operations - Funds from Other than Dedicated Collections	<u>174</u>	<u>(185)</u>
Total Net Position	<u>956</u>	<u>3,532</u>
Total Liabilities and Net Position	\$ <u>1,775</u>	\$ <u>4,348</u>

The accompanying notes are an integral part of these financial statements.
EPA's FY 2020 Annual TSCA Financial Statements

U.S. Environmental Protection Agency
Toxic Substances Control Act Service Fee Fund
Statement of Net Cost
For the Fiscal Years Ended September 30, 2020 and 2019
(Dollars in Thousands)

	2020	2019
COSTS		
Gross Costs	\$ 8,303	\$ 9,851
Expenses from Other Appropriations (Note 9)	37,830	36,381
Less: Earned Revenue	5,510	2,738
NET COST OF OPERATIONS (Notes 11 and 12)	\$ 40,623	\$ 43,494

The accompanying notes are an integral part of these financial statements.
 EPA's FY 2020 Annual TSCA Financial Statements

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U.S. Environmental Protection Agency
Toxic Substances Control Act Service Fee Fund
Statement of Changes in Net Position
For the Fiscal Years Ended September 30, 2020 and 2019
(Dollars in Thousands)

	<u>2020</u>	<u>2019</u>
Unexpended Appropriations:		
Beginning Balance	\$ 3,717	\$ 8,386
Appropriations Received	-	2,262
Appropriations Used	<u>(2,935)</u>	<u>(6,931)</u>
Net Change in Unexpended Appropriations	(2,935)	(4,669)
Total Unexpended Appropriations	\$ <u>782</u>	\$ <u>3,717</u>
Cumulative Results of Operations:		
Beginning Balance	\$ (185)	\$ (125)
Appropriations Used	2,935	6,931
Income from Other Appropriations (Note 9)	37,830	36,381
Imputed Financing Sources	<u>217</u>	<u>122</u>
Net Cost of Operations	<u>(40,623)</u>	<u>(43,494)</u>
Net Change in Cumulative Results of Operations	359	(60)
Cumulative Results of Operations	<u>174</u>	<u>(185)</u>
TOTAL NET POSITION	\$ <u>956</u>	\$ <u>3,532</u>

The accompanying notes are an integral part of these financial statements.
 EPA's FY 2020 Annual TSCA Financial Statements

U.S. Environmental Protection Agency
Toxic Substances Control Act Service Fee Fund
Statement of Budgetary Resources
For the Fiscal Year Ended September 30, 2020 and 2019
(Dollars in Thousands)

	<u>2020</u>	<u>2019</u>
BUDGETARY RESOURCES		
Unobligated Balance From Prior Year Budget Authority, Net (discretionary) (Note 5)	\$ 3,514	\$ 4,692
Appropriations (discretionary)	-	2,262
Spending Authority (discretionary)	<u>5,528</u>	<u>2,717</u>
Total Budgetary Resources	<u>\$ 9,042</u>	<u>\$ 9,671</u>
STATUS OF BUDGETARY RESOURCES		
New Obligations and Upward adjustments (total)	\$ 7,771	\$ 6,648
Unobligated Balance, End of Year:		
Apportioned, Unexpired Accounts	<u>1,271</u>	<u>3,023</u>
Unobligated Balance, End of Year (total): (Note 6)	<u>1,271</u>	<u>3,023</u>
Total Status of Budgetary Resources	<u>\$ 9,042</u>	<u>\$ 9,671</u>
OUTLAYS, NET		
Outlays, Net (total) (discretionary)	\$ 8,100	\$ 9,260
Distributed Offsetting Receipts (-)	<u>(5,530)</u>	<u>(2,738)</u>
Agency Outlays, Net (discretionary)	<u>\$ 2,570</u>	<u>\$ 6,522</u>

The accompanying notes are an integral part of these financial statements.
 EPA's FY 2020 Annual TSCA Financial Statements

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U.S. Environmental Protection Agency
Toxic Substances Control Act Service Fee Fund
Notes to the Financial Statements
For the Fiscal Years Ended September 30, 2020 and 2019
(Dollars in Thousands)

Note 1. Summary of Significant Accounting Policies

A. Reporting Entities

The EPA was created in 1970 by executive reorganization from various components of other federal agencies to better marshal and coordinate federal pollution control efforts. The Agency is generally organized around the media and substances it regulates - air, water, waste, pesticides, and toxic substances.

The Toxic Substances Control Act (TSCA), as amended by the (signed into law June 22, 2016), EPA evaluates potential risks from new and existing chemicals and acts to address any unreasonable risks chemicals may have on human health and the environment. Where a chemical risk evaluation results in a finding of unreasonable risk, EPA may undertake risk management action (rulemaking) to restrict the production, importation and use of the chemical in U.S. commerce. The agency has established reporting, record-keeping and testing requirements to support its evaluation and risk management work. Certain substances such as food, drugs, cosmetics and pesticides are generally excluded from regulation under TSCA.

The TSCA fund may charge some administrative costs directly to the fund and charge the remainder of the administrative costs to Agency-wide appropriations. See Note 9 Income and Expenses from Other Appropriations for amounts included in Income from Other Appropriations on the Statement of Changes in Net Position and as Expenses from Other Appropriations on the Statement of Net Cost.

B. Basis of Presentation

The accompanying financial statements have been prepared to report the financial position and results of operations of the U. S. Environmental Protection Agency (the EPA or Agency) as required by the Chief Financial Officers Act of 1990 and the Government Management Reform Act of 1994. The reports have been prepared from the financial system and records of the Agency in accordance with Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements*, and the EPA accounting policies, which are summarized in this note.

Accounting standards require all reporting entities to disclose that accounting standards allow certain presentations and disclosures to be modified, if needed, to prevent the disclosure of classified information.

C. Budgets and Budgetary Accounting

The EPA receives two-year appropriated funds to carry out the Frank R. Lautenberg Chemical Safety for the 21st Century Act. Under the Act, the Agency is authorized collect users fees (up to \$25 million annually) from chemical manufacturers and processors. Fees collected will defray costs for new chemical reviews and a range of TSCA implementation activities for existing chemicals.

For fiscal year 2020 TSCA was funded through offsetting collections. For fiscal year 2019 TSCA was funded through both appropriations and offsetting collections.

D. Basis of Accounting

Generally Accepted Accounting Principles (GAAP) for federal entities is the standard prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the Federal Government and the American Institute of Certified Public Accountants (AICPA). The financial statements are prepared in accordance with GAAP for federal entities.

EPA's FY 2020 Annual TSCA Financial Statements

11.

U.S. Environmental Protection Agency
Toxic Substances Control Act Service Fee Fund
Notes to the Financial Statements
For the Fiscal Years Ended September 30, 2020 and 2019
(Dollars in Thousands)

Transactions are recorded on an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when liabilities are incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of federal funds posted in accordance with OMB directives and the U.S. Treasury regulations.

EPA uses a modified matching principle since federal entities recognize unfunded liabilities (without budgetary resources) in accordance FASAB Statement of Federal Financial Accounting Standards (SFFAS) No. 5 *Accounting for Liabilities of the Federal Government*.

E. Revenues and Other Financing Sources

TSCA began collecting user fees in fiscal year 2019. For fiscal years 2020 and 2019 TSCA received funding from collections to the extent that expenses were incurred during the fiscal year.

F. Liabilities

Liabilities represent the amount of monies or other resources that are more likely than not to be paid by the Agency as the result of an Agency transaction or event that has already occurred and can be reasonably estimated. However, no liability can be paid by the Agency without an appropriation or other collections authorized for retention. Liabilities for which an appropriation has not been enacted are classified as unfunded liabilities and there is no certainty that the appropriations will be enacted. Liabilities of the Agency arising from other than contracts can be abrogated by the Government acting in its sovereign capacity.

G. Accrued Unfunded Annual Leave

Annual, sick and other leave is expensed as taken during the fiscal year. Annual leave earned but not taken at the end of the fiscal year is accrued as an unfunded liability. Accrued unfunded annual leave is included in the Balance Sheet as a component of "Federal Employee Benefits Payable." Sick leave earned but not taken is not accrued as a liability. It is expensed as it is used.

H. Retirement Plan

There are two primary retirement systems for federal employees. Employees hired prior to January 1, 1987, may participate in the Civil Service Retirement System (CSRS). On January 1, 1987, the Federal Employees Retirement System (FERS) went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1986, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1987, elected to either join FERS and Social Security or remain in CSRS. A primary feature of FERS is that it offers a savings plan to which the Agency automatically contributes one percent of pay and matches any employee contributions up to an additional four percent of pay. The Agency also contributes the employer's matching share for Social Security.

With the issuance of SFFAS No. 5, *Accounting for Liabilities of the Federal Government*, accounting and reporting standards were established for liabilities relating to the federal employee benefit programs (Retirement, Health Benefits, and Life Insurance). SFFAS No. 5 requires that the employing agencies recognize the cost of pensions and other retirement benefits during their employees' active years of service. SFFAS No. 5 requires that the Office of Personnel Management (OPM), as administrator of the CSRS and FERS, the Federal Employees Health Benefits Program, and the Federal Employees Group Life Insurance Program, provide federal agencies with the actuarial cost factors to compute the liability for each program.

EPA's FY 2020 Annual TSCA Financial Statements

12.

U.S. Environmental Protection Agency
 Toxic Substances Control Act Service Fee Fund
 Notes to the Financial Statements
 For the Fiscal Years Ended September 30, 2020 and 2019
 (Dollars in Thousands)

I. Use of Estimates

The preparation of financial statements requires management to make certain estimates and assumptions that affect reporting amounts of assets, liabilities and the reported amounts of the revenue and expenses during the period. Actual results could differ from those estimates.

J. Reclassifications and Comparative Figures

Certain reclassifications have been made to the prior year's financial statements to enhance comparability with the current year's financial statements in accordance with Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements* revised August 10, 2021. As a result, the form and content of the Balance Sheet has changed to conform with OMB Circular No. A-136.

Note 2. Fund Balance With Treasury (FBWT)

Fund Balance with Treasury as of September 30, 2020 and 2019 consists of the following:

	2020			2019		
	Entity Assets	Non-Entity Assets	Total	Entity Assets	Non-Entity Assets	Total
Revolving Funds:						
TSCA	\$ 1,775	\$ -	\$ 1,775	\$ 4,348	\$ -	\$ 4,348
Total	<u>\$ 1,775</u>	<u>\$ -</u>	<u>\$ 1,775</u>	<u>\$ 4,348</u>	<u>\$ -</u>	<u>\$ 4,348</u>

Status of Fund Balances:

Unobligated Amounts in Fund Balance:

	2020	2019
Available for Obligation	\$ 1,271	\$ 3,023
Obligated Balance not yet Disbursed	484	1,304
Non-Budgetary FBWT	<u>20</u>	<u>21</u>
Total	<u>\$ 1,775</u>	<u>\$ 4,348</u>

Note 3. Accounts Payable

The Accounts Payable are current liabilities and consist of the following amounts as of September 30, 2020 and 2019:

	2020	2019
Intragovernmental:		
Accrued Liabilities	\$ -	\$ 5
Total	<u>\$ -</u>	<u>\$ 5</u>

U.S. Environmental Protection Agency
 Toxic Substances Control Act Service Fee Fund
 Notes to the Financial Statements
 For the Fiscal Years Ended September 30, 2020 and 2019
 (Dollars in Thousands)

	2020	2019
Non-Federal:		
Accounts Payable	\$ <u>54</u>	\$ <u>52</u>
Total	\$ <u>54</u>	\$ <u>52</u>

Note 4. Other Liabilities

Other Liabilities consist of the following as of September 30, 2020:

	Covered by Budgetary Resources	Not Covered by Resources	Total
Other Liabilities - Intragovernmental			
Current			
Employer Contributions & Payroll Taxes	\$ <u>11</u>	\$ -	\$ <u>11</u>
Total Intragovernmental	\$ <u>11</u>	\$ -	\$ <u>11</u>
Other Liabilities - Non-Federal			
Current			
Accrued Funded Payroll and Benefits	\$ 34	\$ -	\$ 34
Other Accrued Liabilities	<u>372</u>	<u>-</u>	<u>372</u>
Total Non-Federal	\$ <u>406</u>	\$ -	\$ <u>406</u>

Other Liabilities consist of the following as of September 30, 2019:

	Covered by Budgetary Resources	Not Covered by Resources	Total
Other Liabilities - Intragovernmental			
Current			
Employer Contributions & Payroll Taxes	\$ <u>40</u>	\$ -	\$ <u>40</u>
Total Intragovernmental	\$ <u>40</u>	\$ -	\$ <u>40</u>
Other Liabilities - Non-Federal			
Current			
Accrued Funded Payroll and Benefits	\$ 135	\$ -	\$ 135
Other Accrued Liabilities	<u>387</u>	<u>-</u>	<u>387</u>
Total Non-Federal	\$ <u>522</u>	\$ -	\$ <u>522</u>

U.S. Environmental Protection Agency
 Toxic Substances Control Act Service Fee Fund
 Notes to the Financial Statements
 For the Fiscal Years Ended September 30, 2020 and 2019
 (Dollars in Thousands)

Note 5. Recoveries and Resources Not Available, Statement of Budgetary Resources

Recoveries of Prior Year Obligations on the Statement of Budgetary Resources consist of the following amounts for September 30, 2020 and 2019:

	<u>2020</u>	<u>2019</u>
Net Adjustments to Unobligated Balance Brought Forward, Oct 1.	\$ <u>3,023</u>	\$ <u>4,651</u>
Adjustments to Budgetary Resources Made During the Current Year		
Downward Adjustments of Prior Year Undelivered Orders	497	36
Other Adjustments	<u>(6)</u>	<u>5</u>
Total	\$ <u>3,514</u>	\$ <u>4,692</u>

Note 6. Unobligated Balances Available

Unobligated Balances Available consist of entirely of Apportioned, Unobligated Balances. Unexpired unobligated balances are available to be apportioned by the OMB for new obligations at the beginning of the following fiscal year.

The unobligated balances available consist of the following as of September 30, 2020 and 2019:

	<u>2020</u>	<u>2019</u>
Unexpired Unobligated Balance	\$ <u>1,271</u>	\$ <u>3,023</u>
Total	\$ <u>1,271</u>	\$ <u>3,023</u>

Note 7. Undelivered Orders at the End of the Period

Budgetary resources obligated for undelivered orders as of September 30, 2020 and 2019:

	<u>2020</u>	<u>2019</u>
Intragovernmental:		
Unpaid Undelivered Orders	\$ -	\$ (4)
With the Public:		
Unpaid Undelivered Orders	<u>36</u>	<u>709</u>
Total	\$ <u>36</u>	\$ <u>705</u>

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Note 8. Federal Employee Benefits Payable

Payroll and benefits payable to the EPA employees as of September 30, 2020 and 2019:

	<u>Covered by Budgetary Resources</u>	<u>Not Covered by Budgetary Resources</u>	<u>Total</u>
September 30, 2020 Payroll and Benefits Payable			
Accrued Unfunded Annual Leave	\$ -	\$ 348	\$ 348
Total - Current	<u>\$ -</u>	<u>\$ 348</u>	<u>\$ 348</u>

	<u>Covered by Budgetary Resources</u>	<u>Not Covered by Budgetary Resources</u>	<u>Total</u>
September 30, 2019 Payroll and Benefits Payable			
Accrued Unfunded Annual Leave	\$ -	\$ 197	\$ 197
Total - Current	<u>\$ -</u>	<u>\$ 197</u>	<u>\$ 197</u>

Note 9. Income and Expenses from Other Appropriations

The Statement of Net Cost reports the program costs that include the full cost of the program outputs and consist of the direct costs and all other costs that can be directly traced, assigned on a cause-and-effect basis, or reasonably allocated to program outputs.

During fiscal years 2020 and 2019, the EPA had one appropriation which funded a variety of programmatic and non-programmatic activities across the Agency, subject to statutory requirements. The EPM appropriation was created to fund personnel compensation and benefits, travel, procurement, and contract activities.

As illustrated below there is no impact on TSCA's Statement of Changes in Net Position as of September 30, 2020 and 2019.

	<u>2020</u>	<u>2019</u>
Income from Other Appropriations	\$ 37,830	\$ 36,381
Expenses from Other Appropriations	<u>37,830</u>	<u>36,381</u>
Net Effect	<u>\$ -</u>	<u>\$ -</u>

Note 10. Exchange Revenues, Statement of Net Cost

For fiscal years ended September 30, 2020 and 2019, the exchange revenues reported on the Statement of Net Cost consist of non-Federal amounts.

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Note 11. Intragovernmental Costs and Exchange Revenue

	For the Fiscal Year Ended September 30, 2020	For the Fiscal Year Ended September 30, 2019
Costs:		
Intragovernmental	\$ 916	\$ 2,988
With the Public	7,387	6,863
Expenses from Other Appropriations	<u>37,830</u>	<u>36,381</u>
Total Costs	<u>\$ 46,133</u>	<u>\$ 46,232</u>
Revenue:		
With the Public	<u>5,510</u>	<u>2,738</u>
Total Revenue	5,510	2,738
Net Cost of Operations:	<u>\$ 40,623</u>	<u>\$ 43,494</u>

Intragovernmental costs relate to the source of the goods or services not the classification of the related revenue.

Note 12. Reconciliation of Net Cost of Operations to Net Outlays

	<u>Fiscal Year Ending September 30, 2020</u>		
	<u>Intra- governmental</u>	<u>With the Public</u>	<u>Total</u>
NET COST	\$ 916	\$ 39,707	\$ 40,623
Components of Net Cost That Are Not Part of Net Outlays:			
Other	-	(37,830)	(37,830)
(Increase)/Decrease in Liabilities:			
Accounts Payable	34	(2)	32
Federal Employee Benefits Payable	-	(151)	(151)
Other Liabilities	-	16	16
Other Financing Sources:			
Transfer Out (In) Without Reimbursement	(5,528)	-	(5,528)
Imputed Financing	<u>(217)</u>	<u>-</u>	<u>(217)</u>
Total Components of Net Cost That Are Not Part of Net Outlays	<u>(5,711)</u>	<u>(37,967)</u>	<u>(43,678)</u>
Other	-	5,530	5,530
Other Temporary Timing Differences	-	95	95
NET OUTLAYS	<u>\$ (4,795)</u>	<u>\$ 7,365</u>	<u>\$ 2,570</u>

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	<u>Fiscal Year Ending September 30, 2019</u>		
	<u>Intra- governmental</u>	<u>With the Public</u>	<u>Total</u>
NET COST	\$ 2,988	\$ 40,506	\$ 43,494
Components of Net Cost That Are Not Part of Net Outlays:			
Other	-	(36,381)	(36,381)
Increase/(Decrease) in Assets:			
Other Assets	(35)	-	(35)
(Increase)/Decrease in Liabilities:			
Accounts Payable and Accrued Liabilities	4	(281)	(277)
Payroll and Benefits Payable	-	(139)	(139)
Other Liabilities	(19)	-	(19)
Other Financing Sources:			
Federal Employee Retirement Benefit Costs Paid by OPM and Imputed to the Agency	(112)	-	(112)
Other Imputed Financing	(10)	-	(10)
Total Components of Net Cost That Are Not Part of Net Outlays	(172)	(36,801)	(36,973)
Other Temporary Timing Differences	-	1	1
NET OUTLAYS	\$ 2,816	\$ 3,706	\$ 6,522

Budgetary and financial accounting information differ. Budgetary accounting is used for planning and control purposes and relates to both the receipt and use of cash, as well as reporting the federal deficit. Financial accounting is intended to provide a picture of the government's financial operations and financial position, so it presents information on an accrual basis. The accrual basis includes information about costs arising from the consumption of assets and the incurrence of liabilities. The reconciliation of net outlays, presented on a budgetary basis, and the net cost, presented on an accrual basis, provides an explanation of the relationship between budgetary and financial accounting information.

The reconciliation serves not only to identify costs paid for in the past and those that will be paid in the future, but also to assure integrity between budgetary and financial accounting. The reconciliation explains the relationship between the net cost of operations and net outlays by presenting components of net cost that are not part of net outlays (e.g. depreciation and amortization expenses of assets previously capitalized, change in asset/liabilities), components of net outlays that are not part of net cost (e.g. acquisition of capital assets), other temporary timing difference (e.g. prior period adjustments due to correction of errors). The analysis above illustrates this reconciliation by listing the key differences between net cost and net outlays.

Agency Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

December 5, 2022

OFFICE OF THE
CHIEF FINANCIAL OFFICER

MEMORANDUM

SUBJECT: Response to the Office of Inspector General Draft Report, Project No. OA-FY21-0406 and OA-FY21-0349, *“The EPA’s Fiscal Years 2020 and 2019 Toxic Substances Control Act Service Fee Fund Financial Statements,”* dated October 24, 2022

FROM: Faisal Amin, Chief Financial Officer
Office of the Chief Financial Officer **Amin,**
Faisal

TO: Damon Jackson, Director
Financial Directorate
Office of Audit

Digitally signed by
Amin, Faisal
Date: 2022.12.05
16:52:21 -05'00'

Thank you for the opportunity to respond to the issues and recommendations in the subject draft report. The following is a summary of the U.S. Environmental Protection Agency’s overall position, along with its position on the report’s recommendations. This response and the corrective action have been coordinated with and agreed to by the Office of Chemical Safety and Pollution Prevention.

AGENCY’S OVERALL POSITION

The EPA agrees with the recommendation but wishes to correct several factual misstatements in the draft report.

AGENCY RESPONSE TO OIG STATEMENTS

OIG Statement: Upon receiving our finding, the Agency agreed with the inclusion of all the costs that we identified except for the payroll costs. The Agency researched the functional duties for the direct-cost divisions and reviewed a random sample of one employee in each of the five direct-cost divisions. Based on its research, the Agency disagreed with the inclusion of the roughly \$16 million in payroll costs, stating that the work could not be exclusively tied to TSCA fee-related activities. Conversely, we analyzed the FY 2019 payroll data for 99 employees charging other appropriations and asked those employees whether their work supported the specific provisions of TSCA. We found that multiple employees in direct-cost divisions reported working part or full time on the aforementioned TSCA provisions. Thus, we concluded that the Agency’s analysis was not comprehensive and did not justify excluding the approximately \$16 million in payroll costs. Therefore, the Agency was unable to provide an accurate total for expenses from other appropriations.

Agency Response: The EPA agrees that a portion of the \$16 million should be captured in the calculation of Toxic Substances Control Act fee-related payroll costs. However, the agency believes that capturing 100 percent of the payroll costs for the direct-cost divisions as fee-related, as suggested by the draft report, is inappropriate. Accordingly, the OCFO, in collaboration with the OCSPP, developed an updated allocation methodology intended to accurately capture all program-level costs for the OCSPP's five direct-cost divisions. The allocation estimated that approximately \$11.3 million of costs from these five divisions were attributable to Sections 4, 5, 6, and 14 of the TSCA, and should therefore be captured in the fee-related payroll cost calculations for FY 2019. Subsequent EPA analysis of two other allocation bases (contract expenses and other total expenses) revealed that all three calculations were within approximately \$20,000 of each other for FY 2019, which further suggests that the proposed updated methodology is appropriate. Further agency analysis of five employees (one from each relevant division) revealed that three of the five worked on activities other than those for TSCA Sections 4, 5, 6, and 14. These employee activities outside of the TSCA Sections 4, 5, 6, and 14 are considered TSCA "non-fee related" charges, and so would not appropriately be included as TSCA "fee-related" costs. Furthermore, time spent on other activities considered indirect, such as training or leave taken, would also not be appropriately included as part of direct costs. The draft report states that of the 99 employees sampled in the OIG analysis, "multiple employees in direct-cost divisions reported working part or full time on the aforementioned TSCA provisions." Given that even a small sample analysis reveals that some employee time in the five divisions was spent on work-related activities other than TSCA Sections 4, 5, 6, and 14, the EPA believes that capturing 100 percent of the payroll costs for the five direct-cost divisions as fee-related is inappropriate, and that an allocation is necessary to accurately calculate the costs.

OIG Statement: This error occurred because the EPA does not have an adequate methodology to properly record all costs for administering certain provisions of TSCA.

Agency Response:

The agency agrees that improvements can be made to its methodology as improved payroll coding is implemented. The EPA disagrees that the current methodology is insufficient for providing a defensible estimate of the indirect costs incurred by the TSCA program for TSCA Sections 4, 5, 6, and 14. The agency believes that the current methodology is sufficient because it is consistent with the well-established practices for other user fee programs, which utilizes the "site/project" field as the primary basis for identifying direct/indirect costs. To improve the calculation, an additional measure was recently incorporated into the existing EPA methodology. This measure involves applying the "cost organization code" field to identify direct/indirect costs when the "site/project" field is left blank. The "cost organization" field is populated with supplementary cost accounting codes. This allows the agency to identify mismatches between the two fields and provides greater accuracy in our cost accounting data.

AGENCY RESPONSE TO DRAFT REPORT RECOMMENDATIONS

No.	Recommendation	Office	High-Level Intended Corrective Action(s)	Estimated Completion Date
1	Correct the methodology for accounting for Toxic Substances Control Act direct and indirect expenses from other appropriations to ensure all costs for administering certain provisions of the Act are properly recorded and reported in the financial statements.	OCFO and OCSPP	<p>The OCFO in coordination with the OCSPP, will develop a revised methodology for accounting for TSCA direct and indirect expenses from other appropriations that ensures that all costs are properly recorded in the financial statements.</p> <p>The OCSPP will ensure that the new methodology is applied consistently by staff and implemented beginning in FY 2024.</p>	October 1, 2023

CONTACT INFORMATION

If you have any questions regarding this response, please contact the OCFO’s Audit Follow-up Coordinator, Andrew LeBlanc, at leblanc.andrew@epa.gov or (202) 564-1761, or the OCSPP’s Audit Follow-up Coordinator, Janet Weiner, at weiner.janet@epa.gov or (202) 564-3409.

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