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United States General Accounting Office
Washington, DC 20548

September 27, 2002

The Honorable James L. Oberstar
Ranking Minority Member
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Robert Menendez
House of Representatives

Subject: *Information on the Environmental Protection Agency's Actual and Proposed Funding for Enforcement Activities for Fiscal Years 2001 through 2003*

This report summarizes the information we obtained in response to the issues you raised regarding the Environmental Protection Agency's (EPA) proposal to reduce the number of full-time employees from its enforcement budget for compliance monitoring and civil enforcement activities. As agreed, the information is intended to help you evaluate EPA's statements that (1) the jobs being eliminated are ones that EPA has allowed to lapse or has been unable to fill and (2) the reductions will be managed through normal attrition, without any loss of enforcement expertise and without shifting staff to nonenforcement functions.

Our responses to the issues below are based on the information we obtained relating to EPA's appropriations process for fiscal years 2001 through 2003. We obtained the information by interviewing EPA officials in the Office of Compliance and Enforcement (OECA), who are responsible for developing and monitoring OECA's budget. We also reviewed documentation that these officials provided us on EPA's (1) enacted operating plan for fiscal year 2001, (2) budget request and enacted operating plan for fiscal year 2002, and (3) budget request for fiscal year 2003.

Issue 1

Identify the total number of full-time employees provided for civil enforcement and compliance-monitoring functions (non-Superfund) in EPA's budget as approved by the Congress in the Fiscal Year 2001 Appropriations Act for HUD-VA-Independent Agencies and as reflected in the agency's operating plan for fiscal year 2001, which

described in detail how the agency planned to implement the budget approved by the Congress.¹

GAO's Response

As approved by the Congress and reflected in EPA's operating plan for fiscal year 2001, EPA received a total of 1,464.8 full time equivalent (FTE) positions for civil enforcement and compliance-monitoring functions (non-Superfund) under its Environmental Program and Management (EPM) appropriation. Of this total, 954.8 FTE positions were provided for the civil enforcement program and 510.0 for the compliance-monitoring program.

Issue 2

Determine whether the fiscal year 2001 operating plan for Environmental Programs and Management activities, which was based on the EPA budget approved by the Congress, included full funding (salaries and expenses) for the FTE positions provided for civil enforcement and compliance monitoring (non-Superfund).

GAO's Response

EPA's fiscal year 2001 operating plan included full funding (salaries and expenses) for the FTE positions provided for civil enforcement and compliance-monitoring (non-Superfund) activities. The EPA fiscal year 2001 operating plan for Environmental and Management activities included \$137.5 million for payroll, travel, administration, and a working capital fund (for telecommunications, Internet use, and other aids to enable employees do their jobs) associated with these activities—\$89.1 million for civil enforcement and \$48.4 million for compliance monitoring.

Issue 3

Determine whether planning for expected budget cuts in fiscal year 2002 led EPA to leave open vacancies in fiscal year 2001 for compliance monitoring and civil enforcement (non-Superfund) to the levels that were provided for in the fiscal year 2001 appropriations act and reflected in the agency's operating plan for that year. How many positions were ultimately allowed to lapse in anticipation of these reductions in the enforcement workforce?

GAO's Response

According to OECA officials, the agency had no specific plans to leave vacancies open in anticipation of planned reductions in the workforce for compliance monitoring and civil enforcement (non-Superfund). They noted, however, that managers were probably inclined not to fill all vacancies, anticipating that FTE positions would soon need to be reduced under the fiscal year 2002 budget.

¹ EPA's civil enforcement program helps protect the environment and human health by assuring compliance with federal environmental laws. Civil enforcement encompasses the investigations and cases brought to address the most significant violations, and includes EPA administrative actions and judicial cases referred to the Department of Justice.

OECA officials also told us that, in fiscal year 2001, approximately 65 FTE vacancies were not utilized in EPA's Goal 9, Objective 1, Subobjectives 1 and 2, which include civil enforcement and compliance monitoring, as well as criminal enforcement training, data management, and capacity-building activities. They said that the vacancies were not filled in part because of a government-wide freeze on hiring from November 2000 through February 2001, following the presidential election.

Issue 4

Identify the attrition rate (voluntary retirement or departure of employees) that EPA assumed or assumes for its fiscal year 2001, 2002, and 2003 budgets. Indicate whether reductions to civil enforcement and compliance-monitoring staff planned for fiscal year 2002 and 2003 exceed projected attrition rates. Determine whether EPA had planned (or is planning) to transfer enforcement staff to nonenforcement functions as part of proposed reductions to civil enforcement and compliance-monitoring functions.

GAO's Response

According to EPA officials, the agency does not assume or use any attrition rate in developing its annual budget. Instead, EPA establishes FTE ceilings for each of its program offices, which are expected to manage their resources according to their ceiling.

EPA had proposed reductions of 270 FTE positions for OECA's enforcement activities during fiscal year 2002. Of these FTE positions, the agency had planned to redirect 70 positions to nonenforcement programs and to achieve the remaining reduction of 200 FTEs by not filling vacancies that were expected to occur during the year. EPA officials told us that they did not determine the number of FTE positions that would be redirected specifically from civil enforcement and compliance-monitoring programs. While the redirection of 70 FTEs was implemented, 145 of the remaining 200 FTEs were restored in the November 2001 conference committee report accompanying EPA's fiscal year 2002 appropriations act.

For fiscal year 2003, EPA is requesting a reduction of 76 FTE positions for civil enforcement and compliance-monitoring (non-Superfund) activities from fiscal year 2002 enacted levels. EPA does not intend to redirect any of these enforcement FTE positions to other activities. Rather, EPA plans to achieve these reductions by not filling vacancies that occur during the year.

Issue 5

Determine whether EPA's fiscal year 2002 operating plan restored FTE positions for civil enforcement and compliance monitoring (non-Superfund) to the fiscal year 2001 levels, as directed by the Congress in the fiscal year 2002 Appropriations Act for HUD-VA-Independent Agencies.

GAO's Response

EPA officials told us that EPA's fiscal year 2002 proposed operating plan did not restore 121.8 FTE positions for civil enforcement and compliance monitoring (non-Superfund) that had been available during fiscal year 2001. They told us that the funding received from the Congress for fiscal year 2002 was not sufficient to fund these FTEs. Subsequently, an additional 30 FTEs (24 non-Superfund) were restored to civil enforcement and compliance monitoring in fiscal year 2002.

Issue 6

Compare the FTE positions for civil enforcement, compliance-monitoring, and incentive programs (non-Superfund) in the fiscal year 2001 budget for OECA as approved by the Congress and reflected in the operating plan for that year with the amount projected in fiscal year 2003 in the administration's proposal to the Congress.

GAO's Response

Table 1 compares the fiscal year 2001 positions with the amount projected in fiscal year 2003 in the administration's proposal to Congress.

Table 1: FTE Positions for Civil Enforcement, Compliance-Monitoring, and Incentive Programs (Non-Superfund) in the Fiscal Year 2001 Budget Compared with the Administration's Proposed Fiscal Year 2003 Budget

Program	Fiscal year 2001 operating plan for FTE enforcement positions	Fiscal year 2003 President's budget for FTE enforcement positions
Civil enforcement	954.8	848.2
Compliance monitoring	510.0	419.3
Compliance Incentives	94.9	82.8
Total	1,559.7	1,350.3

Issue 7

Compare the amount of contract dollars available to support OECA in fiscal year 2001 with the amount that would be available under the fiscal year 2003 budget proposed for EPA by the administration.

GAO's Response

Under its fiscal year 2001 budget, OECA received \$30,465,100 for its contracting activities (non-Superfund). It has requested \$26,487,200 for fiscal year 2003 (non-Superfund).

Issue 8

Indicate the approximate number of OECA's FTE staff engaged in counterterrorism investigation or support activities in fiscal year 2002. Determine if (1) EPA shifted 30

FTE positions from OECA's budget for civil enforcement and compliance monitoring to support counterterrorism activities, in addition to the 50 FTE positions already provided by Congress and (2) whether OECA will fill more than 50 counterterrorism positions in fiscal year 2003, making the reduction to environmental enforcement unnecessary.

GAO's Response

For fiscal year 2002, EPA estimates that it will spend approximately 50 FTE for OECA's counterterrorism activities.

In January 2002, EPA was provided with funds to cover an additional 50 FTE for OECA's homeland security activities under a supplemental appropriation. As part of EPA's 2002 operating plan submitted to the Congress in April 2002, the agency proposed to allocate an additional 30 FTEs from enforcement to homeland security activities. However, in July 2002, the Congress denied EPA's proposal. Prior to that date, some enforcement staff had worked on homeland security activities, but agency officials told us that all time spent on such activities during fiscal year 2002 will be charged to the supplemental appropriation.

EPA officials told us that, by the end of fiscal year 2002, they estimate that EPA will have filled approximately 50 FTEs for OECA's counterterrorism activities.

Issue 9

Last year, GAO recommended that the administration not proceed with planned budget cuts for enforcement and monitoring functions without completing a comprehensive workforce study to evaluate whether enforcement resources are adequate to meet need. Indicate whether EPA has undertaken such a study.

GAO's Response

OECA has developed a draft Human Capital Strategy but has not performed the workload study that we recommended. However, OECA has been working with EPA's human resources office, in a pilot effort, to develop a methodology for a workforce assessment. The overall objective is to define the business line and the resources to accomplish the work. OECA's draft human capital strategy focuses on the organizational needs of OECA headquarters. The strategy recommends that each regional office examine its enforcement workforce consistent with OECA's headquarters strategy. Completing such an examination of regional needs is essential for OECA to fully analyze its enforcement workload and accurately determine the impacts of reducing its enforcement staff, shifting resources to states, and ensuring that enforcement resources are directed to the areas of greatest need.

Agency Comments

We provided EPA with a draft of this report for review and comment. EPA officials, including the Director of the Administration and Resources Management Support Staff in the Office of Enforcement and Compliance Assurance, generally agreed with

the information contained in this report and offered a number of detailed clarifications, which we incorporated as appropriate.

We performed our work from July through August 2002 in accordance with generally accepted government auditing standards.

As agreed with your office, we plan no further distribution of this report until 7 days after the date of this letter. At that time, we will send copies to the Administrator of EPA and other interested parties. We will also make copies available upon request. In addition, this report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you have any questions about this letter, please call me at (202) 512-3841 or Edward A. Kratzer, Assistant Director, at (202) 512-6553. William H. Roach also contributed to this assignment.

A handwritten signature in black ink, appearing to read "John B. Stephenson", with a long horizontal flourish extending to the right.

John B. Stephenson
Director, Natural Resources
and Environment