



**OFFICE OF INSPECTOR GENERAL**  
U.S. ENVIRONMENTAL PROTECTION AGENCY

# **Follow the Money: Oversight of President Biden's Massive Spending Spree**

**Statement of Sean W. O'Donnell  
Inspector General  
U.S. Environmental Protection Agency**

**Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
U.S. House of Representatives**

**March 29, 2023**

## **Introduction**

Good afternoon, Chairman Griffith, Ranking Member Castor, and members of the subcommittee. I am Sean O'Donnell, the inspector general for the U.S. Environmental Protection Agency and the U.S. Chemical Safety and Hazard Investigation Board.

I would like to thank the subcommittee for inviting me to testify about the importance of oversight relating to the Infrastructure Investment and Jobs Act and the Inflation Reduction Act. Today I will provide an overview of how the Office of Inspector General has approached, from day one, oversight of the unprecedented funding and responsibilities assigned to the EPA under the IJA. I will also summarize our progress to date, which includes a compilation of best practices, lessons learned, and overall good governance practices to guide the EPA's disbursement of this infrastructure-related funding. I will discuss risks inherent to the EPA's work, the OIG's groundwork and early oversight results, best practices for contract and grant awards, the relevance of recent infrastructure emergencies, the role of state revolving funds, and the OIG's outreach to stakeholders.

Regarding the IRA, I will focus on the risk of not providing dedicated funding to an OIG for oversight, which is the predicament my office is facing. After more than a decade of flat and declining budgets, responsibility for oversight of a second enormous supplemental appropriation to the EPA will literally decimate our resources. Unlike other offices of inspector general, the EPA OIG did not receive supplemental funding under the IRA to carry out its oversight mandate.

## **Infrastructure Investment and Jobs Act Oversight**

### **Background**

As the largest single investment in the EPA, the IJA appropriates more than \$60 billion to the Agency over five years, with most of this money available until expended. The IJA provides for significant investments in the nation's drinking water and wastewater infrastructure projects, environmental cleanups, clean school buses and other clean air projects, and an expanded EPA workforce. To put the enormity of this undertaking into perspective, the EPA's annual appropriation in 2021 was just over \$9 billion, or less than a sixth of its share of the IJA.

The EPA will award the vast majority of its IJA funds as loans and grants to nonfederal entities. While the funding mechanisms might be familiar, such as the state revolving funds or the school bus programs, we are concerned about the capacity of these recipients, and their subrecipients, to handle this money efficiently and effectively. For example, one state shared with us its apprehension that its SRFs will receive more money through the IJA than they have in previous years combined. As another example, the Clean School Bus Program, which effectively evolved from the Diesel Emissions Reduction Act Program, will create demand for electric school buses that, based on current supply chain limitations, will far exceed supply, placing the associated funds at risk of not being properly expended. The equation of an agency that is dispensing an unprecedented infusion of dollars, times the large number of recipient organizations struggling

with capacity issues, equals an extraordinarily high risk for fraud, waste, and abuse. Risk areas include potential mismanagement of funds, noncompliance with funding requirements, and failure to meet programmatic goals.

Oversight is critical to ensure that the EPA, as well as its grantees and contractors, are faithful stewards of precious American tax dollars. Congress, recognizing the need for IJIA-focused oversight, provided the OIG with funding under the IJIA, to be allocated across five years. We are grateful for this provision, and I want to assure you that we are putting the money to good use. I have bolstered our program offices with IJIA-specific directorates and dedicated personnel. As I will explain in detail, we are undertaking both strategic preparatory work and engaged oversight. Attention to internal controls will be paramount to the success of the IJIA.

At the OIG, we anticipate that the life cycle of our oversight work is likely to extend for years beyond the EPA's distribution of awards. As an example, at the start of March 2023, the EPA had obligated only \$7.6 billion of IJIA funds, with more than 80 percent of those funds being distributed in the form of state and tribal assistance grants. And the recipients may not actually spend all this money until years from now. To put it differently, it is now about a year and half since the IJIA was enacted, and the EPA still has more than 87 percent of the IJIA funds to distribute. Accordingly, the need for IJIA oversight will not conclude in 2027. To that end, we appreciate that most of our IJIA funds, like the Agency's, are available until expended—a risk averted.

## **The OIG's Groundwork and Early Oversight Results**

Following enactment of the IJIA in November 2021, the OIG immediately began laying the groundwork for oversight by, among other things, releasing our inaugural *Infrastructure Investment and Jobs Act Oversight Plan* in April 2022.<sup>1</sup> Since then, our IJIA oversight efforts have already produced quantifiable results for our Agency. While the EPA was ramping up to conduct its IJIA programmatic work, we combed through an extensive body of previous oversight work, from OIG and GAO reports to single audits, to identify good governance practices, compiling a list for the Agency to incorporate into its IJIA efforts. In our series of “lessons learned” reports,<sup>2</sup> we endeavored to steer the EPA away from historical pitfalls that could endanger the EPA's massive IJIA investments. As one example, in a report encompassing lessons learned for infrastructure programs from single-audit reports, where we reviewed external auditor findings over three years, we identified more than 350 instances of noncompliance with applicable federal laws, regulations, and program requirements. As another example, we drew on our oversight of American Recovery and Reinvestment Act projects to

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<sup>1</sup> [Infrastructure Investment and Jobs Act Oversight Plan](#), Apr. 29, 2022.

<sup>2</sup> *Considerations from Single Audit Reports for the EPA's Administration of Infrastructure Investment and Jobs Act Funds*, Report No. [22-N-0057](#), Sept. 14, 2022; *American Recovery and Reinvestment Act Findings for Consideration in the Implementation of the Infrastructure Investment and Jobs Act*, Report No. [23-N-0004](#), Dec. 7, 2022; *Considerations for the EPA's Implementation of Grants Awarded Pursuant to the Infrastructure Investment and Jobs Act*, Report No. [22-N-0055](#), Aug. 11, 2022; *Lessons Identified from Prior Oversight of the EPA's Geographic and National Estuary Programs*, Report No. [22-E-0054](#), Aug. 8, 2022.

identify three areas where the EPA can mitigate risks and reduce the likelihood of fraud, waste, and abuse of IIJA funds.

Over the past week, the OIG has released two IIJA-related oversight documents—one of which directly contributes to our efforts to identify best practices for the Agency, as well as to keep the Agency accountable for implementing OIG recommendations. On March 23, we issued the *Compendium of Open and Unresolved Recommendations Related to Infrastructure Investment and Jobs Act-Funded Programs*.<sup>3</sup> Open or unresolved OIG recommendations within an EPA program indicate that the EPA does not have the internal controls necessary to effectively administer that program. Furthermore, the OIG issued most of these recommendations when EPA programs were operating at historic funding levels. A windfall to the EPA in IIJA appropriations, together with responsibility for fulfilling numerous new requirements, vastly increases the likelihood of fraud, waste, and abuse if the OIG’s recommendations are not timely implemented. And just this morning, we released the *Infrastructure Investment and Jobs Act Progress Report—Year One*, which summarizes the OIG’s efforts thus far to provide oversight of the Agency’s execution to date of IIJA funding.

The EPA has now entered the implementation phase of its IIJA work, and OIG oversight is keeping pace with six projects in progress. These projects cover institutional controls at Superfund sites slated for IIJA cleanup funds,<sup>4</sup> supply chain issues for funded projects,<sup>5</sup> and capacity and management issues related to the state revolving funds.<sup>6</sup> We also have five additional IIJA-funded oversight projects at the planning stage. A complete list of the OIG’s IIJA completed, ongoing, and planned audit and evaluation projects is available on our dedicated IIJA Oversight [webpage](#).

### **Role of State Revolving Funds**

Our focus on the SRFs is commensurate with the historic funding that these funds are receiving. One way to think of the SRFs is as banks that use federal seed money to provide water systems with loans at low interest rates. Funds from repaid loans are then returned to the SRFs for further lending. According to the EPA, the SRFs have funded over \$200 billion in water infrastructure projects. With the IIJA, the EPA will increase the size of these funds by approximately \$40 billion for water infrastructure projects related to, among other things, lead service line replacement, emerging contaminants like PFAS, and other purposes. This is on top of the nearly \$6.5 billion of American Rescue Plan Act funds that have been obligated for water infrastructure

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<sup>3</sup> [Compendium of Open and Unresolved Recommendations Related to Infrastructure Investment and Jobs Act-Funded Programs](#), March 23, 2023.

<sup>4</sup> For example, *Effectiveness of IIJA Funding at American Creosote Works, Inc. Superfund Site in Pensacola, Florida*, Project No. [OSRE-FY23-0054](#), March 15, 2023.

<sup>5</sup> For example, *The EPA’s Clean School Bus Program*, Project No. [OA-FY23-0051](#), Feb. 27, 2023.

<sup>6</sup> For example, *The EPA’s Oversight of the Clean Water State Revolving Fund*, Project No. [OA-FY23-0047](#), Feb. 23, 2023, and *The EPA’s Identification and Replacement of Lead Service Lines in Disadvantaged Communities*, Project No. [OA-FY23-0037](#), Nov. 17, 2022.

projects through the SRFs. And these ARPA funds must be distributed in a much shorter time than the IJA funds.

The need for vigorous oversight of the SRFs and their recipients cannot be overstated. Since the enactment of the IJA, the OIG has initiated four projects related to three water infrastructure emergencies. In response to the Jackson, Mississippi crisis, we initiated two projects, one with a federal-level aperture that examines the EPA's oversight of drinking water issues and its response to the crisis, and one that focuses on the state and local decisions made regarding the community water system.<sup>7</sup> And in response to the Red Hill fuel leak, which contaminated drinking water at Joint Base Pearl Harbor-Hickam in Hawaii, we are analyzing the sequence of events to determine whether the EPA's oversight of the state effectively addressed potential contamination issues.<sup>8</sup> Our final report on Red Hill may be issued as early as next month. Finally, we are completing our initial inquiry into water contamination in St. Charles, Missouri,<sup>9</sup> and will decide soon whether to undertake formal oversight work.

These water emergencies speak to the need for us to follow every dollar from the federal EPA to the state agencies to the local organizations that ultimately receive and spend it. Our ability to do so will rely on the EPA's collection of accurate, useful data down to the implementation level, as well as the EPA's sharing of that data with us. We are working with our state, local, and tribal partners to ensure that expenditure of IJA funds complies with federal laws and regulations, including the IJA's many provisions, along with grant and program requirements. Our Office of Audit has already begun the project of ensuring that audits of Clean Water SRF and Drinking Water SRF financial statements and state programs, including single audits, comply with applicable laws, regulations, and rules. Our Office of Special Review and Evaluation is reviewing whether state revolving fund recipients have the capacity to manage and use IJA funds effectively and efficiently. Our Office of Investigations is working with law enforcement authorities to fight fraud and recover any purloined funds. And our Data Analytics Directorate is leveraging technological and methodological tools to inform the public of where IJA funds are being spent and identify potential fraud for OIG oversight.

### **Best Practices for Contract and Grant Awards**

Another part of our proactive oversight includes encouraging the EPA to institute best practices for managing contract and grant awards. From our daily oversight work to our experience with the American Recovery and Reinvestment Act of 2009, where we realized a return of over 300 percent on Congress's investment in our oversight, we have seen the need to institute three best practices: anti-fraud provisions, fraud reporting and whistleblower protection provisions,

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<sup>7</sup> *Jackson, Mississippi Drinking Water Funding and Spending Decisions*, Project No. [OA-FY23-0035](#), Nov. 14, 2022, and *Review of EPA Response and Oversight Related to Drinking Water Contamination in Jackson, Mississippi*, Project No. [OSRE-FY23-0033](#), Nov 14, 2022.

<sup>8</sup> *EPA Oversight of Drinking Water Contamination at Red Hill, Hawaii*, Project No. [OSRE-FY22-0075](#), Mar. 21, 2022.

<sup>9</sup> *Inquiry into Source Water Contamination in St. Charles, Missouri*, Project No. [OSRE-FY23-0042](#), Jan. 30, 2023.

and OIG access provisions. We are working with the EPA to have these best practices put into place in time for the disbursement of IJJA and IRA funds.

With respect to anti-fraud provisions, we are working with the EPA to strengthen contract and grant attestations to ensure that contractors, subcontractors, grantees, and subgrantees understand that they are attesting to the truthfulness, completeness, and accuracy of their submissions to the government. We are also working with the EPA to ensure that contract and grant language clearly disclose possible criminal, civil, and administrative actions for violations. These strengthened provisions must be matched by training to ensure that EPA contract and grant recipients are well informed about all program rules, procedures, and reporting requirements; that they implement fraud identification and deterrence training; and that they implement internal controls that identify potential program risks. Finally, we want to ensure that all recipients conduct their own routine program and financial audits.

One of the most important tools in our fight against fraud is a properly functioning fraud-reporting mechanism. The Inspector General Act, the Federal Acquisition Regulation, and the Uniform Grant Guidance require that contractors and grantees report suspected instances of fraud to the OIG. EPA training for staff, contractors, and grantees should emphasize this reporting mechanism. This training should also emphasize that federal law protects whistleblowers from retaliation or reprisal for reporting suspected fraud, and should be reinforced with mandatory training and disclosure requirements in contracts, subcontracts, grants, and subgrants.

With so much of the EPA's IJJA funds going to contractors, subcontractors, grantees, and subgrantees, it is important that the OIG has the ability to conduct audits and examinations of any contract, subcontract, grant, or subgrant. To facilitate this activity, the Inspector General Act, the Federal Acquisition Regulation, and the Uniform Grant Guidance require that EPA contractors, subcontractors, grantees, and subgrantees provide the OIG with access to information and personnel. The EPA's contracts and grants should employ language that emphasizes the right of the OIG to access any information pertinent to the award and to interview personnel related to that information. Furthermore, the EPA's training of EPA staff, contractors, and grantees should cover the role of the OIG in conducting audits of federal awards and its right to access pertinent information and personnel.

### **The OIG's Outreach to Stakeholders**

We also have a responsibility to meet with EPA staff and funding recipients because, in our view, outreach is a key prong—along with traditional oversight in the form of audits, investigations, and evaluations—in our efforts to prevent and address waste, fraud, and abuse. As an organization, we are making a concerted effort to meet with relevant entities most affected by our oversight. Over the last several months, I have met with state environmental officials and state auditors to discuss the OIG's oversight work and to offer our assistance in our shared fight against fraud, waste, and abuse. Similarly, our investigators and auditors have conducted 168 joint IJJA fraud briefings, reaching more than 3,700 attendees, including EPA staff members, potential grant recipients, and state environmental agencies, among other stakeholders.

We are also meeting with the EPA on a regular basis to discuss the Agency’s plans for creating and implementing IJJA and IRA programs. These meetings, encouraged by Office of Management and Budget M-22-12, are intended to create a “more cooperative and early prevention model for fraud prevention and program integrity, while still respecting the independence of the oversight community.” OIG audit, evaluation, and investigation teams have attended several presentations, including on state revolving funds and Clean School Bus programs, at which the EPA described how it will administer and monitor IJJA funds, along with its top risks, issues, and vulnerabilities. In turn, our auditors, evaluators, and investigators provided insights based on their extensive oversight experience, offering additional considerations on fraud risks and other areas.

Our oversight professionals are also collaborating with other law enforcement agencies and OIGs to protect taxpayer-funded projects receiving funds from the IJJA and the IRA. For example, our investigators participate in the Procurement Collusion Strike Force, an interagency partnership that strives to deter antitrust violations and related crimes at the federal, state, and local levels. More than 50 agencies have reached out seeking training, assistance, and other opportunities to work with the Strike Force. As another example, within the Council of the Inspectors General on Integrity and Efficiency, we are part of a Grant Fraud Working Group and an IJJA Working Group, which share best practices for investigative approaches.

In all our engagements, we drive home the IJJA oversight themes I have discussed so far today. Such an enormous investment in American infrastructure requires a robust oversight mechanism to protect American dollars, especially as most of the EPA’s IJJA funds will flow to nonfederal entities with potential capacity and capability issues. It is also critical to monitor program progress and to determine whether the Agency accomplished its promised program outcomes. We are thankful that Congress had the foresight to provide oversight dollars as part of the IJJA, and we are striving to empower the EPA and its grantees and contractors, as they implement the IJJA, to minimize the financial and programmatic risks inherent in such an overwhelming influx of funding.

## **Inflation Reduction Act Oversight**

### **No EPA OIG Oversight Funding**

The Inflation Reduction Act appropriated a total of approximately \$41.5 billion to the EPA in fiscal year 2022, with approximately 85 percent of these funds available only through fiscal year 2026. This funding is expected to support 24 new and existing programs, representing a significant investment in climate change, air quality, and environmental justice. We anticipate that the IRA will result in awarding contracts and grants to new recipients, many of whom are unfamiliar with federal contract and grant requirements. These risks alone make clear that there is a significant need for strong oversight.

Unfortunately, unlike the IJJA, the IRA fails to provide any funds for EPA OIG oversight. Zero IRA funding combined with a dozen years of stagnant or declining appropriations and increasing

demands for independent oversight, leaves the OIG without sufficient capacity to properly oversee the \$41.5 billion of IRA spending. To put the OIG's budgetary constraints in context, in fiscal year 2011, when the EPA's budget was \$8.68 billion, the OIG was funded at \$54.7 million for 365 full-time equivalents (FTEs). In fiscal year 2023, when the EPA's budget has increased by 14 percent to \$10.1 billion, the OIG budget increased by less than two percent, to \$55.8 million for 270 FTEs.

Without adequate resources, not only have we been unable to do any meaningful IRA oversight, but we have also had to cancel or postpone work in important EPA areas, such as chemical safety and pollution cleanup. I have been forced to pause hiring and begin planning for more significant actions heading into the next fiscal year. As it stands, we are facing increased congressionally mandated or requested work, increased workloads related to our oversight of environmental disaster responses, such as the East Palestine train derailment, and increased allegations of employee misconduct and whistleblower reprisal.

Congress can, however, ensure that the EPA has effective and independent oversight by increasing the OIG's core funding in a manner that is commensurate with the EPA's budget increase over the last 12 years, and by providing the OIG with a modicum of supplemental funding, ideally just 0.35 percent of the IRA funds appropriated to the EPA, to allow it to perform effective oversight of the EPA's IRA work. I know EPA leadership supports our plea for appropriate oversight funding, and I am committed to working with this Congress to fully address years of anemic budgets.

### **Oversight Challenges**

In the OIG's estimation, the IRA carries more risk of fraud, waste, and abuse than the IJA for two main reasons. First, it creates more new programs than the IJA, and new programs are inherently more prone to inefficiencies and errors than existing programs. Second, whereas most of the EPA's IJA appropriations are no-year funds, the IRA appropriations have expiration dates ranging from the end of fiscal year 2024 to the end of fiscal year 2031. Specifically, \$27 billion of the EPA's \$41 billion in IRA funding, or 65 percent, must be spent by the end of fiscal year 2024, and another \$7.93 billion, or 19 percent, must be spent by the end of fiscal year 2026. The pace of this spending, when conducted by newly created programs and received by new recipients, significantly increases the vulnerability of all parties to fraud and creates the potential for errors or inefficiencies in execution.

The \$27 billion expiring at the end of 2024 is for the Greenhouse Gas Reduction Fund, a new program intended to create new green banks as vehicles for distributing grant funds to state and local governments for investment in distributed energy and other clean technologies. So new is this funding vehicle that the EPA, in late October, began seeking public input on the fund's design and implementation. Last month, the EPA announced plans to issue between two and 15 competitive grants under the Greenhouse Gas Reduction Fund. Under the present circumstances, all of this would happen with no additional guidance from Congress and little oversight from the



OIG.<sup>10</sup> The rapid implementation of the program, combined with the relatively narrow window of availability for such a significant amount of funding, may lead the EPA to expend the funds without fully establishing the internal controls that mitigate the risk of fraud, waste, and abuse.

Another example of a new entity established under the auspices of the IRA is the new Office of Environmental Justice and External Civil Rights. The programs and offices that were brought together to form the OEJECR previously had a combined budget of approximately \$12 million. It will now manage approximately \$3 billion for environmental and climate justice block grants to fund community-based nonprofit organizations. We are concerned that, in seeking to reach new recipients, the OEJECR will eschew or elide important internal controls and anti-fraud protections.

As we identified in our series of “lessons learned” reports directed to preparing our Agency for expending its IJJA appropriations, the EPA will face significant issues distributing an unprecedented amount of IRA funds. And while the EPA can apply these lessons learned and our proposed best practices to both special appropriations, the oversight commonalities largely end there. The IJJA and the IRA encompass different goals, offices, and programs. The OIG is strategically and effectively implementing the IJJA oversight funds provided to us, allowing us to balance the risk-reward continuum. Unfortunately, the benefit of dedicated oversight dollars for the EPA was not built into the IRA.

### **Conclusions**

An investment in oversight, and in the EPA Office of Inspector General, costs relatively little but provides positive returns. As a point of perspective, between fiscal years 2013 and 2022, the funding for oversight represented approximately one-half of a penny for every dollar the EPA spent. In return, over that same period, the OIG yielded a return of over 300 percent to American taxpayers. And we expect this to continue. For the first half of fiscal year 2023, we have already identified \$135 million in wasted spending, fraud avoidance, or other monetary benefit.

Between the IJJA and the IRA, the EPA received over \$100 billion in supplemental appropriations—a staggering figure. The only oversight funds dedicated to the statutory oversight body for the EPA were pursuant to the IJJA, which means that just 0.0027 percent of this unprecedented funding was set aside for EPA OIG oversight. Now we are talking about just a quarter of a penny for every dollar. Given the massive and often quick-turnaround spending efforts ahead, combined with the pass-through of funds to nontraditional recipients unfamiliar with government contracting rules and regulations, risks of financial waste, fraud, and abuse, as well as of programmatic shortfalls, are very real.

As I explained earlier, without a budget keeping pace with the demands of this office and dedicated IRA oversight funding, we will continue to have to make hard choices about our work

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<sup>10</sup> We currently have one IRA-related project underway, an evaluation to determine what steps, if any, the EPA is taking to address the increase in air pollution from oceangoing vessels at U.S. maritime ports. *Air Quality at U.S. Maritime Ports*, Project No. [OSRE-FY22-0140](#), June 29, 2022.

and our workforce. I appreciate the support Congress has provided to the EPA OIG. Thank you. But, as I said earlier, it is not enough to guarantee proper oversight of this massive taxpayer investment. We need more and I will work with you and your colleagues in Congress to ensure that the EPA and its recipients are responsible stewards of American taxpayers' money while keeping our water drinkable, our air clean, and our lands usable. Thank you and I look forward to addressing your questions.

### **Biography: Inspector General Sean W. O'Donnell**

Sean W. O'Donnell was sworn in as the Inspector General of the U.S. Environmental Protection Agency on January 27, 2020.

The mission of the Office of Inspector General is to promote economy and efficiency at the EPA and the U.S. Chemical Safety and Hazard Investigation Board, as well as detect and prevent waste, fraud, and abuse related to the programs and operations of those two agencies. To this end, Mr. O'Donnell oversees a nationwide workforce of attorneys, auditors, special agents, and support personnel who support the Office's mission by providing evidence-based reports to the agencies, the public, and to Congress. For nearly three years, Mr. O'Donnell also served as the acting Inspector General of the U.S. Department of Defense, leading a work force of over 1,800 oversight professionals charged with providing independent and objective oversight of the world's largest organization.



Prior to becoming the Inspector General, Mr. O'Donnell spent 15 years at the U.S. Department of Justice, most recently as a prosecutor in the Criminal Division's Money Laundering and Asset Recovery Section. Over his career at the DOJ, he handled a wide range of criminal and civil matters, such as commercial and governmental fraud, corruption, and national security matters. In total, Mr. O'Donnell's work in fighting fraud helped return billions to the U.S. Treasury and brought numerous individuals and corporations to justice. Mr. O'Donnell received numerous awards and honors from across the U.S. Government, including the Department of Defense Medal for Distinguished Public Service and Attorney General's Award for Distinguished Service.

Early in his career, Mr. O'Donnell clerked on both the federal court of appeals and the federal district court. He also spent time in private practice, working on intellectual property and antitrust litigation, among other matters. Mr. O'Donnell is active in his community, having served on his city's redistricting and ethics commissions. His contribution to youth sports in his community has been recognized through awards and other accolades.

Mr. O'Donnell has a bachelor's degree in economics from Texas A&M University, a bachelor's degree in mathematics from the University of Washington, and a master's degree in economics and a law degree from the University of Texas at Austin.