U.S. GOVERNMENT ACCOUNTABILITY OFFICE
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June 8, 2017

The Honorable Lisa Murkowski
Chairman
The Honorable Tom Udall
Ranking Member
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
United States Senate

The Honorable Ken Calvert
Chairman
The Honorable Betty McCollum
Ranking Member
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
House of Representatives

EPA Science Advisory Board: Policy Statement on Science Quality and Integrity

In formulating rules to protect the environment and public health, the Environmental Protection Agency (EPA) relies on advice from scientific and technical experts. EPA's Science Advisory Board (SAB) is one source of scientific and technical advice for EPA. The SAB consists of about 45 independent experts in the fields of science, engineering, economics, and other social sciences and is overseen by the SAB Staff Office, which is staffed by EPA employees. As a federal advisory committee, the SAB must comply with the Federal Advisory Committee Act (FACA).[1] Among other things, FACA requires that EPA establish uniform administrative guidelines and management controls for its advisory committees.

An explanatory statement accompanying the Consolidated Appropriations Act, 2016 directed EPA to develop an updated policy statement on science quality and integrity for the SAB.[2] According to the explanatory statement, the policy statement should include (1) goals on increasing membership from states and tribes; (2) an evaluation of potential bias, if EPA's Administrator decides that financial-related metrics are appropriate to identify conflicts of interest or bias; and (3) direction on treating public comments. The explanatory statement also directed EPA to submit a draft of the policy statement to GAO for review and included a provision for GAO to review the updated policy statement and determine whether the updated policy met the intent of the explanatory statement. The deadline for EPA's submission to us was March 17, 2016.

[1]Pub. L. No. 92-463, 86 Stat. 770 (Oct. 6, 1972), codified, as amended, at 5 U.S.C. app. 2.

[2]The explanatory statement noted that EPA had "not yet resolved long-standing questions regarding conflicts of interest that have spanned multiple Administrations." 161 Cong. Rec. H10220 (daily ed. Dec. 17, 2015) (explanatory statement submitted by Representative Hal Rogers regarding House Amendment #1 to the Senate Amendment on H.R. 2029, later enacted as Pub. L. No. 114-113, 129 Stat. 2242 (2015)).

For this report, we assessed whether EPA drafted an updated policy statement that addressed the directives in the explanatory statement. To do this, we reviewed EPA documents and interviewed EPA officials, including SAB Staff Office officials. We conducted this performance audit from January 2017 to June 2017, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

EPA's Response Did Not Address All Congressional Directives

EPA did not update its policies or requirements for the SAB in response to the direction in the explanatory statement, nor did it specifically address all of the directives in the statement. Instead, EPA developed a draft document that describes how the SAB Staff Office implements existing policies and procedures, according to the letter accompanying this document and SAB Staff Office officials we interviewed.[3] Moreover, the letter accompanying the draft document was dated September 30, 2016—more than 6 months after the deadline for EPA to submit the draft policy statement and updated policies to us for review.

Our review of the draft document noted the following:

- The draft document states that EPA has policies to ensure that advisory committees operate in accordance with (1) FACA and its implementing regulations, (2) statutes and regulations regarding ethics requirements for members of advisory committees and panels, and (3) other relevant EPA policies, including the Scientific Integrity Policy and the Peer Review Policy.[4]
- According to the draft document, EPA addresses SAB scientific quality and integrity issues—such as independence and objectivity, committee composition and balance, and freedom from financial conflicts of interest—through its Scientific Integrity Policy, Peer Review Policy, Peer Review Handbook, and the Office of Management and Budget Peer Review Bulletin.[5]

SAB Staff Office officials we interviewed stated that to develop the draft document, EPA synthesized the policies and procedures that it has developed and continuously updated in

[3]Environmental Protection Agency, *Ensuring the Scientific Quality and Integrity of SAB and CASAC Advisory Processes*, Draft Document (Sept. 8, 2016).

[4]Environmental Protection Agency, *Scientific Integrity Policy* (February 2012), accessed March 16, 2017, https://www.epa.gov/sites/production/files/2014-02/documents/scientific_integrity_policy_2012.pdf; and Environmental Protection Agency, *Peer Review and Peer Involvement at the U.S. Environmental Protection Agency* (Jan. 31, 2006), accessed April 20, 2017, https://www.epa.gov/sites/production/files/2015-01/documents/peer_review_policy_and_memo.pdf. In January 2017, EPA published corrections to the *Scientific Integrity Policy*; see Environmental Protection Agency, *Supplemental Information for the U.S. Environmental Protection Agency's Scientific Integrity Policy* (January 2017), accessed April 14, 2017, https://www.epa.gov/sites/production/files/2017-01/documents/fy2017_scientific_integrity_policy_supplemental_information_0.pdf.

[5]Environmental Protection Agency, Science and Technology Policy Council, *Peer Review Handbook*, 4th Ed., EPA/100/B-15/001 (Washington, D.C.: October 2015) and Office of Management and Budget, *Final Information Quality Bulletin for Peer Review* (Dec. 15, 2004).

response to FACA, implementing regulations, SAB Staff Office guidance, and stakeholder feedback. According to these officials, EPA has made numerous updates to its policies and procedures to enhance the openness, transparency, and balance of SAB reviews. The officials stated that these updates include larger, more diverse review panels; increased opportunities for public input; and outreach to industry and other groups to ensure greater participation.[6]

With regard to the specific directives in the explanatory statement, we noted the following:

- With regard to the first directive in the explanatory statement, the draft document does not include specific or numeric goals on increasing membership from states and tribes. However, it states that the SAB Staff Office is committed to expanding the diversity of scientific perspectives on the SAB, including the perspectives of scientists from state and local governments, tribes, industry, and nongovernmental organizations. According to SAB Staff Office officials, while they seek to increase the participation of state scientists, they often receive few applications from these scientists and, therefore, meeting a numeric goal could be challenging.
- With regard to the second directive in the explanatory statement, the draft document does not discuss whether EPA's Administrator made a decision about the appropriateness of updating financial-related metrics for identifying conflicts of interest or bias. SAB Staff Office officials told us that this is because they rely on the existing legal and policy framework—including FACA requirements and Office of Government Ethics regulations—as appropriate financial metrics for identifying conflicts of interest or bias.[7]
- With regard to the third directive in the explanatory statement, the draft document refers to but does not update the practices for considering and responding to public comments that are included in the Peer Review Handbook and the SAB handbook.[8]

In conclusion, while EPA developed a draft document that describes how the SAB Staff Office implements existing policies and procedures, as well as describes past actions to update and improve these policies and procedures, EPA did not update its policies or requirements for the SAB as directed by the explanatory statement. We are not making a recommendation at this time, because EPA has not yet finalized its policy statement. However, as EPA moves forward, we encourage it to specifically address the directives provided in the explanatory statement.

Agency Comments and Our Evaluation

We provided a draft of this report to EPA for review and comment. In its written comments, reproduced in enclosure I, EPA stated that its draft document synthesized its policies and procedures to evaluate conflict of interest committee composition and balance, qualitative goals to increase state and tribal membership, and eligibility requirements for service on the SAB to ensure fairness and objectivity. In addition, EPA stated that it has and will continue to update its policies and procedures to enhance the openness, transparency, and balance of its membership. While we recognize that EPA's draft document synthesized its existing policies

[6]We did not review the composition of SAB panels for changes in diversity or other levels of participation.

[7]The Office of Government Ethics provides overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest.

[8]Environmental Protection Agency, *Serving on the EPA Science Advisory Board: A Handbook for Members and Consultants*, EPA-SABSO-12-001 (March 2012).

and procedures, as well as describing past actions to update and improve these policies and procedures, EPA did not update its policies or requirements for the SAB as directed by the explanatory statement. Therefore, as EPA moves forward, we continue to encourage the agency to specifically address the directives provided in the explanatory statement.

We are sending copies of this report to the appropriate congressional committees, the EPA Administrator, and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or gomezj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are Janet Frisch (Assistant Director), Antoinette Capaccio, Chad M. Gorman, and Richard Johnson.

J. Alfredo Gómez
Director, Natural Resources and Environment

Enclosure – 1

Enclosure I: Comments from the Environmental Protection Agency

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

May 18, 2017

OFFICE OF THE ADMINISTRATOR

J. Alfredo Gomez
Director, Natural Resources and Environment
U.S. Government Accountability Office
331 G Street, NW
Washington, DC 20548

Dear Mr. Gomez:

Thank you for the work of you and your staff on GAO engagement code 101351 regarding the Consolidated Appropriations Act, 2016 directing the EPA Administrator to develop a policy statement on science quality and integrity for the Science Advisory Board (SAB) and all Board members.

As you may know, EPA developed the draft policy document entitled *Ensuring the Scientific Quality and Integrity of SAB and CASAC Advisory Processes* in response to the explanatory statement. EPA synthesized its policies and procedures to evaluate conflict of interest committee composition and balance, qualitative goals to increase State and tribal membership, and eligibility requirements for service on the SAB to ensure fairness and objectivity.

As we move forward under the new Administration, there will be a concerted effort to assure diversity and to look for additional ways to strengthen scientific review at EPA. Already that process is underway. The Agency is committed to diversity of scientific perspectives on the SAB to the maximum extent possible, including the perspectives of scientists from state and local governments, tribes, industry, and nongovernmental organizations, while maintaining foremost attention to essential scientific expertise. EPA has and will continue to updates its policies and procedures to enhance the openness, transparency and balance of its membership. EPA has adopted and will continue to adopt new practices to improve accessibility and responsiveness to the public.

While the draft proposed GAO report does not provide specific recommendations, it does encourage the EPA to address directives provided in the explanatory statement. The agency has responded to recommendations in previous reports to improve policies in this regard and the SAB Staff Office will continue advancing and improving procedures to assure the independence, integrity and quality of the scientific and technical advice the SAB provides to the Administrator.

Sincerely,

John E. Reeder
Deputy Chief of Staff

cc: Christopher Zarba, Director
SAB Staff Office

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