



AFGE Council 238

2023 Legislative Conference Issue Paper Environmental Protection Agency

Congressional Actions

- Congress should take immediate steps to address the staffing crisis at the Environmental Protection Agency (EPA).
- Implementation of the Inflation Reduction Act (IRA), the Bipartisan Infrastructure Law (BIL) and EPA's Fiscal Year 2023 funding increase will not be meaningful if EPA staff is so overburdened that they cannot bring home benefits to the American people. Steps we need from Congress include:
 - Creating a specific appropriation for promotion of experienced EPA staff.
 - Providing oversight of EPA's hiring including improved pay to attract in-demand STEM workers.
 - Urging EPA to use already-available workplace retention tools, including approving more remote work, preserving scientific integrity, creating a fair 4-tier performance system, and boosting workforce diversity and inclusion.
 - Working to avert a government default in FY 2023.
- Congress should support the decarbonization of the Thrift Savings Plan (i.e. the removal of company stocks linked to global warming) as climate challenges faced by the nation continue to escalate.

Background

The members of AFGE Council 238, EPA's largest union at over 7,700 strong, commend our lawmakers' determination to limit harmful greenhouse gas emissions and avert the worst effects of climate change by passing the Inflation Reduction Act (IRA), the Bipartisan Infrastructure Law (BIL) and the Environmental Protection Agency's Fiscal Year 2023 Appropriation. EPA employees stand ready to address climate change, the most pressing environmental problem of

our generation, as we have demonstrated over our 50-year track record at the Agency. But EPA is now facing a crisis that limits our path to success, and the Agency has yet to take simple steps to help avert it.

Congress must take immediate steps to address the EPA staffing shortage

EPA's staffing crisis is adversely affecting the Agency's mission and its work on climate. The EPA staffing shortage continues to thwart action by the Agency. Our mission has grown enormously, and climate challenges continue to escalate, but EPA's ability to hire and retain staff is at a crisis point.

In the past year, Congress has added many new responsibilities to EPA's plate. The BIL – a once-in-a-generation investment in our nation's infrastructure and competitiveness – enables us to rebuild America's roads, bridges and rails, expand access to clean drinking water, tackle the climate crisis and advance environmental justice. The IRA invests in clean energy and jobs, while lowering energy costs for families and slashing climate pollution in the U.S. by an estimated 40% by the end of the decade.

But new regulations reducing greenhouse gas emissions from power plants, cars and trucks must be enacted if the nation is to meet the goal of reducing those emissions in half by the end of the decade. Writing half dozen highly complex rules that are expected to reduce the most devastating effects of climate change demands an expert, highly trained EPA staff that must act with maximum speed to avert global catastrophe. And EPA staff must shepherd the new rules through complex regulatory hurdles within the next 18 months, a pace unheard of in the regulatory world. EPA has already missed its own self-imposed deadlines, which is not an encouraging sign for those tracking progress in the war on climate change.

Further, federal environmental enforcement must be reinvigorated. EPA's civil cases against polluters hit a two-decade low in 2022, with only 72 such enforcement cases closed in court. That number is even lower than during the Trump administration, which avoided restrictions on industry yet closed an average of 94 enforcement cases per year. In contrast, the EPA under the Obama administration closed an average of 210 enforcement cases per year. And on top of these challenges, EPA must enact a trailblazing environmental justice agenda.

EPA workers are implementing key provisions of groundbreaking regulatory efforts to protect the American people and our planet. The country is depending on them to help avert the worst effects of the climate crisis. But, EPA career employees report, and EPA management acknowledges "staff are being 'worked to death' and are under the greatest pressure they've ever encountered as Agency employees." Right now, EPA's 14,000 full-time employees are not enough to meet the demands posed by the climate crisis. To meet the current needs, EPA must expand its ranks to 20,000 workers.

Failure to retain staff is exacerbating the staffing shortage at EPA

Congress must take steps to prioritize staff retention at EPA and entice workers to stay at the Agency. EPA staffing levels are dependent on two factors: (1) hiring of new staff and (2) retention of existing hires. Right now, EPA is focused on hiring but is ignoring retention. There is no net gain in staff as attrition accelerates.

EPA is hiring new employees at an impressive clip. But in the past two years, EPA's hiring spree has only upped staff by 3 percent, to 14,844 employees. It is not enough to reduce the staffing shortage. Total staff levels are still very low – and remain stuck at numbers only marginally above when Ronald Reagan was president. This is because even though hiring continues, employees are leaving EPA at a very high rate, draining the Agency of staff and, importantly, hard earned expertise. Over 3,000 employees are currently eligible to retire.

Unless incentives are provided, overworked staff are moving to retire rather than continue to shoulder a punishing workload, increasing the burden on remaining workers. Employees at the start of their careers are also leaving because of uncompetitive pay.

EPA workers are poised to tackle the steepest challenges of any workforce in history – averting climate change impacts that threaten most of our nation's communities. Solving the climate crisis is our generation's moonshot. There is too much at stake for EPA to maintain low pay and sustain failed retention policies. Tackling climate change will require dramatic change at EPA, and that starts with visionary, forward-looking hiring and retention policies for its workers.

Congress should provide funding and oversight for promotions and higher pay at EPA

Congress must provide funding and oversight for EPA promotions, higher pay and opportunities for career growth that are more comparable to the private sector.

AFGE Council 238 is grateful for the work of 80 House members and 29 Senators who joined in letters to Administrator Regan pushing for fair promotions for EPA scientists and engineers. Over 650 EPA workers followed up those Congressional appeals with a petition to Administrator Regan.

To retain the most talented environmental professionals and attract the next generation of the best and brightest technical workers, Congress should provide and specifically designate EPA funding that supports more career ladder GS-13, GS-14, and GS-15 positions and higher pay commensurate with private sector competition for STEM workers.

At present, EPA salaries are not competitive with private industry. Locality pay adjustments fail to offset the high cost of living in areas where EPA personnel are concentrated, such as Boston, New York, D.C., Chicago, Denver, San Francisco, and Seattle. Even with the federal pay bump of 2023, a starting GS-7 scientist or engineer who joins the agency and starts working in Washington, D.C. would make \$53,105 per year; 30% lower than the average \$80,000 entry-level salary for an environmental engineer with a private firm in the D.C. area. Increasing pay for EPA staff by providing promotion potential will help attract candidates and retain the best

talent to enable the Agency to take on its science-based climate change work as well as rebuild our existing environmental laws and regulations.

More pay through promotions should be a critical component of EPA's retention plan. When EPA workers must take on more and more work but receive no recognition or compensation for doing so, they leave the Agency. Senior EPA staff are retiring at record rates, and those remaining must pick up the slack with no commensurate raise in pay or a promotion to the retiree's grade level.

Congress must: (1) urge EPA to use existing authorities to provide promotion potential for EPA jobs and raise individual salaries in cases where pay is lagging the private sector; and (2) carve out more of EPA's appropriations for promoting current staff.

Congress should provide oversight of EPA's incentives for allowing more remote work and telework opportunities as a cost savings and recruiting measure and, importantly, to reduce emissions

More remote work and telework opportunities will incentivize highly skilled employees to work at EPA. Since the COVID-19 pandemic began, many federal employees have been granted the ability to work remotely to protect their health and the health of their families and communities. EPA employees were praised by EPA management, even under the Trump administration, for their effectiveness working remotely – processing more environmental permit applications during the first year of the pandemic compared to a standard year working in-person.

As federal agencies began to return to work in-person, considering how effective EPA was during the COVID-19 pandemic, AFGE bargained with the Agency to allow EPA employees to continue to telework full time. After only nine months under this agreement, the Agency is quickly trying to limit the scope of the agreement by disapproving a large swath of applications for remote work. As acknowledged in the agreement itself, offering remote work is a selling point that helps recruit to EPA from the STEM applicant pool. The Agency has reported that, after remote work is ruled out in job offers, applicants have been turning down EPA's offers of employment. As it stands, fully one quarter of job offers tendered by EPA are not being accepted. Remote work is part of the employment package most STEM workers are looking for. And within EPA, we see more experienced EPA employees transferring to offices where remote work is possible. Some 85 percent of federal employees say working from home had benefits for their quality of life. Federal employees believe the benefits go beyond simple convenience. Over three-quarters believe their productivity is better when they work at home. Most say they took the extra time they had without a commute to learn new skills. And when it comes to the bottom line of productivity, nearly 70 percent of federal employees say there was no difference between working remotely or being in-person.

Importantly, reducing EPA's office footprint is both an environmental and a cost savings measure. Federal departments that cover transit costs were able to shed a considerable part of that financial burden. Utility costs dropped. More employees working remotely created

opportunities to reduce office space. The Department of Education, for example, saved over \$3 million on transit costs alone. When comparing EPA with other similarly situated agencies, EPA lags behind in approval of remote work even though EPA productivity has not suffered.

Investing in the work-life balance EPA's workforce will pay huge future dividends. The cost of that investment, in the form of approving more remote work, is minimal and in fact allowing remote work saves money. The investment in telework and remote work will attract the best and the brightest while at the same time retaining EPA's highly educated, highly trained workers. When the future of our planet and our people are at stake, approving more remote work is a low cost yet critical step.

Congress should demand EPA adopt a fair performance review process

EPA has imposed a three-tier performance system that has downgraded many hard-working employees' performance appraisals. Imposition of this system has caused widespread disaffection among employees, discouraged staff from taking on extra work, or caused them to leave EPA.

Results-oriented performance appraisal plans are central to linking individual achievement to organizational outcomes and building a high-performance governmental organization. Failing to provide a rating system that allows management to accurately reflect employees' performance harms employee morale and ultimately is counterproductive. If we are serious about meeting the president's goals to combat the climate-related threats facing our planet, EPA must put in place a fair workplace performance system to retain the best scientists in the nation.

Congress should demand more action to support diversity and inclusion at EPA

AFGE Council 238 supports and embraces equity and inclusion at EPA – it's part of who we are and how we do our work. The Agency must take more robust action to address diversity at EPA and must recruit and retain more engineers and scientists of color. Right now, EPA does not reflect our nation's diversity. EPA has admitted it is hiring people of color at a lower percentage than they appear in the pool of applicants. This must change.

EPA should specifically provide more promotion opportunities to Black and Hispanic/Latino workers. Currently Black and Latino workers are underrepresented in higher graded positions, GS-13 and above, and rarely can progress to the highest positions. White workers hold 71% of GS-14 positions and 76% of GS-15 positions.

EPA's lack of diversity has exacerbated the staffing crisis, keeping the American public from being served by the most effective EPA possible. But EPA management has yet to meaningfully address diversity and inclusion at EPA. Congress should incentivize diversity goals in its oversight of EPA's funding and should examine EPA's efforts to increase training, development, and career ladder opportunities for diverse candidates.

Congress should protect EPA's 2023 appropriation from erosion due to the debt ceiling crisis

In the coming conflict over raising the debt limit, we ask that Congress preserve the gains made by EPA under the BIL, IRA and the first increase in appropriations in many years.

The federal debt limit, set by law, restricts the total amount of money that the federal government can legally borrow. The Treasury Department reached the debt ceiling on January 19th of this year. It can no longer borrow money to cover government operations, so it is temporarily drawing on “extraordinary measures” – accounting maneuvers that allow the government to continue standard operations for a short period. At some point after early June, these extraordinary measures will be exhausted, and the Treasury will no longer be able to pay its obligations. At that point, given annual deficits, incoming receipts would be insufficient to pay daily obligations as they come due. This would cause the federal government to default on many of its obligations, including salaries for federal civilian employees and funding of measures to reduce climate change.

Failing to raise the debt ceiling would be disastrous for EPA's work. We no longer can say with certainty that the House majority will work promptly to raise or suspend the debt ceiling by the deadline. Worse, holdouts may attempt to extract concessions in return for raising the debt ceiling that could erode any progress gained by EPA in funding for staff or its mission. \$90 billion was provided by Congress under the BIL and the IRA for climate projects. EPA must administer \$1.5 billion to develop the technology to monitor and reduce methane emissions from oil and gas wells, \$5 billion to lower emissions from school buses and \$3 billion to minimize pollution at ports.

Key provisions in this year's appropriation add nearly \$450 million to funding for programs and activities to protect the environment. EPA's 2023 funding finally began to address years of declining EPA resources, after the 2022 budget that was half the size, in real dollars, of EPA's budget 40 years ago. The 2023 EPA appropriation takes a tiny step forward, with \$575 million in new funding, much of which will help rebuild the Agency and restore its ability to implement and enforce the laws protecting our nation's environment. While the funding increase is only a modest 6 percent of the EPA budget — less than the current inflation rate and one-quarter of what EPA requested – it is a significant improvement on 2022 funding.

If, as some have suggested, a budget compromise protects defense spending while cutting the overall budget back to 2022 levels, the rest of domestic spending will take in a massive and devastating 18% cut. Moving backwards, and capping investments in EPA and climate resiliency at fiscal year 2022 levels will be disastrous to the planet.

Congress should guarantee scientific integrity at EPA that will protect the American people and EPA staff

Under our last administration, and previous ones, sound science was not safeguarded at EPA.

EPA ignored its Scientific Integrity Program during the Trump years, even when multiple instances of abuse were reported. President Biden's attempts to address political interference in scientific decisions at EPA have failed to alleviate the pressure on scientists when upper management fails to support sound science

Scientists within EPA's Office of Chemical Safety and Pollution Prevention blasted the Scientific Integrity Program in 2021. More than 70% of scientists feared that "my confidentiality will not be protected" if they report a lapse in scientific integrity. Recently, a Scientific Integrity Officer revealed complaining scientists' identities in an unredacted complaint and proceeded to discuss how the scientists could be reined in by managers.

EPA's Scientific Integrity Program has been broken for so long nobody has any reason to trust it, demonstrated by the continuing stream of misconduct charges by scientists. EPA's lack of any action to remedy integrity breaches, no matter how egregious, only reinforces the sense of impunity among its managers. The quality of science within EPA will not improve until Congress demands a strong and independent capacity for adjudicating claims of alteration and suppression of science.

Congress should ensure that the Thrift Savings Plan includes indexes that exclude fossil fuel investments and fully staff the Federal Retirement Thrift Investment Board (FRTIB) with members who understand climate risk.

The Thrift Savings Plan serves 6.5 million federal employees, including civil servants and the military, and has \$762 billion in assets. EPA employees want to invest their retirement savings in funds that provide a long-term sound financial investment and do not contribute to climate change or deforestation.

We have committed to protect the health of this nation and our environment. We want our investments to reflect our values and the missions we proudly serve as well. As the economy has shifted to clean energy sources, the TSP has not kept up, and the TSP Board has not met its fiduciary duty to provide investments in our best financial interests.

The TSP is invested in companies that are driving the climate crisis. Recent federal government reports, including reports from the U.S. Federal Reserve, the U.S. Department of Defense, and the thirteen agencies in the Global Change Research Program, highlight the risks posed by climate change to our nation's economy, national security, public health, and environment.

While we applaud the Biden Administration's Executive Order that requires the Federal Retirement Thrift Investment Board to evaluate the risk of continued investment in fossil fuel securities, this has not gone far enough. The TSP continues holding its positions in the fossil fuel industry. Not only are these investments contrary to our Agency's mission, fossil fuel stocks have mostly underperformed the market for the past decade. The S&P 500 Fossil Fuel Free Total Return index has outperformed the S&P 500 Total Return index, namely the TSP C Fund, since 2012. Coal, oil, and gas companies will be poor investments in our transformation to

fossil-free energy, while also presenting palpable financial risk to TSP members' earnings. As the nation accelerates the transition to a low-carbon economy, EPA workers want our retirement portfolios to benefit from clean energy investments and avoid the potential high risk and low returns of fossil fuels.

Investing in ESG (Environmental Social Governance) funds has only been offered in the limited and unfavorable circumstances through a mutual fund window. But the mutual fund window is not an attractive option for most investors, as it charges an annual \$55 administrative fee, an annual \$95 maintenance fee, and a per-trade fee of \$28.75. Moreover, it is only accessible to participants with balances over \$40,000, and those investors are limited to a contribution of 25% of their TSP balance. Publicity and training about the mutual fund window for federal employees has been minimal.

The FRTIB itself could recommend changing the existing index funds' strategies to make them ESG-friendly. According to the rules governing the TSP, the current funds in the plan must track indexes that are "commonly recognized" and a "reasonably complete representation" of the market.

The exposure of TSP's investment portfolio to risks from climate change is unfair to federal workers. The FRTIB has not addressed such risks. We ask that Congress require that the Thrift Savings Plan fund follow the GAO report recommending that the TSP Board investigate using indexes that exclude low-return companies whose primary business is oil, natural gas, and coal exploration and production. Further, we request that the president appoint members to the FRTIB who understand that climate change is a systemic risk to financial markets and will require the asset managers for the Thrift Savings Plan to support shareholder resolutions on climate change mitigation and deforestation.