



# U.S. DEPARTMENT OF HOMELAND SECURITY **OFFICE OF INSPECTOR GENERAL**

OIG-24-22

April 18, 2024

**FINAL REPORT**

## **CISA's Use of Infrastructure Investment and Job Act Funds**





# OFFICE OF INSPECTOR GENERAL

U.S. Department of Homeland Security

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April 18, 2024

MEMORANDUM FOR: The Honorable Jen Easterly  
Director  
Cybersecurity and Infrastructure Security Agency

FROM: Joseph V. Cuffari, Ph.D.      **JOSEPH V  
CUFFARI**      Digitally signed by  
Inspector General      JOSEPH V CUFFARI  
Date: 2024.04.18  
08:30:26 -07'00'

SUBJECT: *CISA's Use of Infrastructure Investment and Jobs Act Funds*

Attached for your action is our final report, *CISA's Use of Infrastructure Investment and Jobs Act Funds*. CISA chose not to submit management comments. The report contains no recommendations.

Consistent with our responsibility under the *Inspector General Act*, we will provide copies of our report to congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Please contact me with any questions, or your staff may Thomas Kait, Deputy Inspector General, Office of Inspections and Evaluations, at (202) 981 6000.

Attachment



# DHS OIG HIGHLIGHTS

## CISA's Use of Infrastructure Investment and Jobs Act Funds

April 18, 2024

### Why We Did This Evaluation

CISA is the operational lead for Federal cybersecurity and the national coordinator for critical infrastructure security and resilience. In this role, CISA serves as a Sector Risk Management Agency for eight critical infrastructure sectors. It is also responsible for cross-sector activities. The IIJA provided funding for CISA program offices contributing to CISA's critical infrastructure sector activities. We conducted this evaluation to assess CISA's process to ensure its use of IIJA funding will support or expand its national cross-sector role.

### What We Recommend

We made no recommendations.

**For Further Information:**

Contact our Office of Public Affairs at (202) 981-6000, or email us at:

[DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov).

### What We Found

The Cybersecurity and Infrastructure Security Agency's (CISA) planned activities funded by the *Infrastructure Investment and Jobs Act* (IIJA) appear related to CISA's cross-sector role. CISA had only spent a small amount of IIJA funds by the start of fieldwork, limiting our ability to assess how the use of IIJA funding impacted CISA's cross-sector role. However, CISA has plans for spending all of the \$35 million IIJA appropriated funds covered by this report by fiscal year 2026 and had obligated over 45 percent of the funds by the end of FY 2023. CISA's planned use of these IIJA funds aligns with CISA's standard financial controls processes and general appropriations requirements.

### CISA Response

CISA chose not to submit management comments.



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### Background

The Cybersecurity and Infrastructure Security Agency (CISA) is the operational lead for Federal cybersecurity and the national coordinator for critical infrastructure security and resilience. CISA's critical infrastructure functions include serving as the Sector Risk Management Agency (SRMA) for eight critical infrastructure sectors.<sup>1</sup> An SRMA, previously referred to as a Sector-Specific Agency, is a Federal department or agency designated by law or Presidential directive as responsible for "providing institutional knowledge and specialized expertise of a sector, as well as leading, facilitating, or supporting programs and associated activities of its designated critical infrastructure sector in the all hazards environment in coordination with [the Department of Homeland Security]."<sup>2</sup> Presidential Policy Directive 21,<sup>3</sup> which was signed in 2013, identified responsibilities for SRMAs, including incident management and prioritization and coordination of sector-specific activities. The *Fiscal Year 2021 National Defense Authorization Act* (NDAA) expanded on these requirements for SRMAs,<sup>4</sup> adding an additional responsibility and specifying activities SRMAs are to perform under each responsibility.<sup>5</sup> The 2021 NDAA also defined cross-sector responsibilities for CISA's Director by establishing that five of the SRMAs' six responsibilities were coordinated with CISA's Director.

On November 15, 2021, the President signed the *Infrastructure Investment and Jobs Act* (IIJA), which appropriated \$35 million, "to remain available until September 30, 2026, for risk management operations and stakeholder engagement and requirements."<sup>6</sup> In May 2022, the White House published a guidebook (IIJA guidebook) describing proposed use of IIJA funds.<sup>7</sup> According to the IIJA guidebook, CISA's IIJA funds, "will allow [CISA] to sustain coordinated support for [SRMAs] across the Federal government, cultivating sector-specific expertise within the agency."

CISA divided the IIJA appropriation among three program offices:

- National Risk Management Center (NRMC), which provides analytical support to CISA's mission to understand, manage, and reduce risk to the cyber and physical infrastructure. NRMC received \$19.7 million (56 percent) of the IIJA funding.

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<sup>1</sup> CISA is SRMA for the following sectors: chemical; commercial facilities; communications; critical manufacturing; dams; emergency services; information technology; and nuclear reactors, materials, and waste. DHS is the co-SRMA for the following sectors: government facilities (with General Services Administration) and transportation systems (with the Department of Transportation).

<sup>2</sup> 6 U.S.C. § 650(23).

<sup>3</sup> [https://www.cisa.gov/sites/default/files/2023-01/ppd-21-critical-infrastructure-and-resilience-508\\_0.pdf](https://www.cisa.gov/sites/default/files/2023-01/ppd-21-critical-infrastructure-and-resilience-508_0.pdf)

<sup>4</sup> *William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021*, Pub. L. No. 116-283, 134 Stat. 3388, 4768-4773.

<sup>5</sup> See 6 U.S.C. § 665d(c).

<sup>6</sup> *Infrastructure Investment and Jobs Act*, Pub. L. No. 117-58, 135 Stat. 429, 1385.

<sup>7</sup> <https://www.whitehouse.gov/wp-content/uploads/2022/05/BUILDING-A-BETTER-AMERICA-V2.pdf>.



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- Stakeholder Engagement Division (SED), which leads voluntary partnerships and engagements and serves as CISA’s hub for shared stakeholder information that facilitates operational collaboration. SED received \$9.6 million (28 percent) of the IIJA funding.
- Infrastructure Security Division (ISD), which leads the national effort to secure critical infrastructure from all hazards by managing risk and enhancing resilience through collaboration with the critical infrastructure community. ISD received \$5.7 million (16 percent) of the IIJA funding.

In addition to funding received through the IIJA, CISA also received funding for SRMA activities through the regular FY 2022 budget process. As part of this process, in May 2021 and July 2021, respectively, the House and Senate Appropriations Committees requested CISA provide information regarding potential uses for additional funding to support SRMA responsibilities. In response to these requests, CISA detailed activities it could perform with the additional funding.<sup>8</sup> On December 17, 2021, DHS submitted to Congress technical assistance<sup>9</sup> for the FY 2022 budget, which included a table showing an additional \$39 million for SRMA activities, divided among the same three divisions that received funding under the IIJA: NRMCC, SED, and ISD. On March 15, 2022, the President signed the *Consolidated Appropriations Act, 2022*.<sup>10</sup> Ultimately, CISA’s FY 2022 annual budget appropriation included funding for SRMA activities that was similar in time of appropriation, scope, and amount to the IIJA funding. Specifically, the appropriations provided CISA \$39 million “for the management of the eight sectors for which CISA is the [SRMA]” to be divided similarly as the IIJA: \$22 million (56.4 percent) to the NRMCC, \$10.5 million (26.9 percent) to the SED, and \$6.5 million (16.7 percent) to the ISD. The figure below depicts a timeline of relevant budget activities.

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<sup>8</sup> Due to House and Senate Appropriations Committees using identical language in their requests, CISA provided the same response to each committee.

<sup>9</sup> Technical assistance occurs when DHS provides congressional staff information related to DHS budget requests, programs, and activities. It is intended to help ensure the appropriation bill is written accurately and as the Appropriations Committees intends.

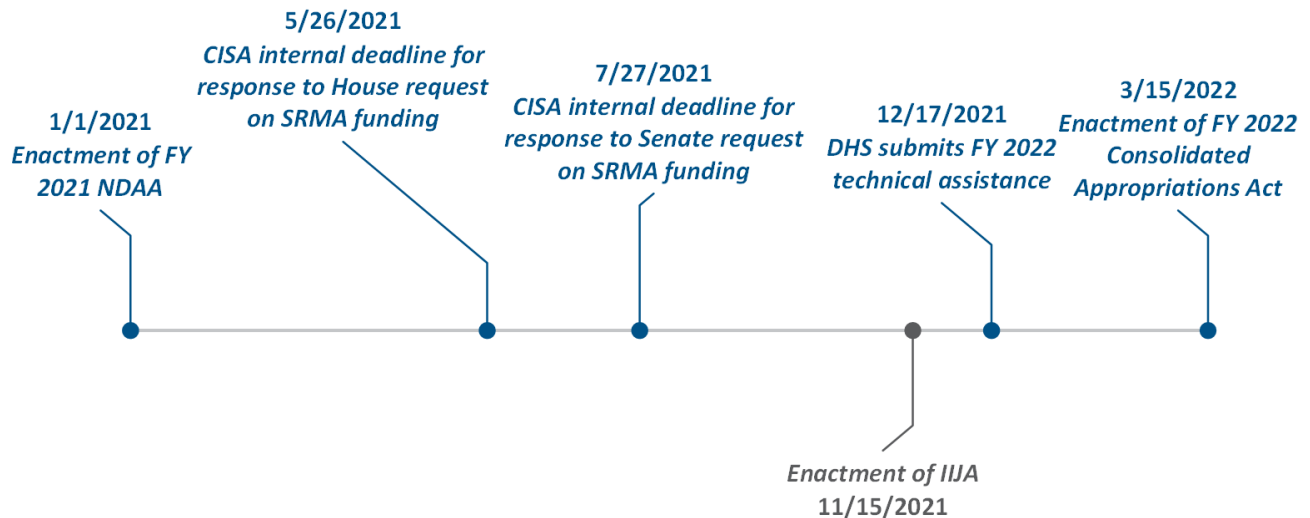
<sup>10</sup> *Consolidated Appropriations Act, 2022*, Pub. L. No. 117-103, 136 Stat. 49.



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Figure. Timeline of Relevant Budget Activities



Source: DHS Office of Inspector General

The objective of our evaluation was to assess CISA’s process to ensure its use of IIJA funding will support or expand its national cross-sector role.

### Results of Evaluation

#### CISA’s Planned Use of IIJA Funds Appears to Support Its Cross-Sector Role and Aligns with Its Standard Financial Controls Processes and General Appropriation Requirements

The IIJA-funded activities appear related to CISA’s cross-sector role. At the time our fieldwork started in June 2023, CISA had only spent approximately \$1.3 million of the IIJA funds, limiting our ability to assess how the use of IIJA funding impacted CISA’s cross-sector role. However, CISA has plans for spending all of the \$35 million IIJA appropriated funds covered by this report. As described below, we reviewed CISA’s spend plan for IIJA funds, which accounts for all the \$35 million in IIJA funds available being used by FY 2026.<sup>11</sup> By the end of FY 2023, CISA had spent approximately \$3 million and obligated approximately \$15.7 million (45 percent) of the funds.

Activities funded by the IIJA include the Operational Modeling All Hazards Analysis tool to assist CISA with increasing its visibility of risks and threat impacts of incidents across sectors. According to a CISA official, this modeling tool would, for example, assist with understanding the impact to the agriculture sector of a dam breach or the impacts to the information technology

<sup>11</sup> Of the \$35,000,000 appropriated, \$34,912,500 was made available to SED, NRMC, and ISD.



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and water sectors from a major highway collapse. Additionally, IIJA funds will support an update to CISA's Infrastructure Data Taxonomy, which CISA developed to ensure that DHS can communicate and disseminate information among all other government agencies regarding the Nation's critical infrastructure by providing common and consistent terminology that is representative of critical infrastructure sectors.

We also examined whether CISA's planned use of IIJA funds aligned with standard financial controls processes and general appropriations requirements. CISA officials said the process and controls used for overseeing IIJA funds aligned with the process and controls used for annual appropriations. We obtained and reviewed relevant contracts and a spend plan used to track execution of funds. The spend plan shows funds allocated to each of the three offices, funded activities, and planned spending through the duration of the funding. CISA is also using ICE's financial management system to track and manage spending of IIJA funds. Finally, budget officials from CISA said they check whether spend plans align with congressional intent and whether potential procurement activities align to the spend plan. DHS budget officials said DHS will help resolve questions about whether execution meets appropriations requirements, including congressional intent for use of the funds.

To further assess CISA's use of IIJA funds, we also considered general appropriations requirements, including congressional intent as required by the purpose statute, which states that, "[a]ppropriations shall be applied only to the objects for which the appropriations were made except otherwise provided by law."<sup>12</sup> To identify the purpose of an appropriation, DHS considers the language in the appropriation; a joint conference report, if available, or a joint explanatory statement; other legislative history; and DHS' Congressional budget justification, which provides additional detail to Congress beyond the President's budget request.<sup>13</sup> DHS also uses a three-part test to determine whether spending is a necessary expense. This test asks whether:

- the expenditure bears a logical relationship to the appropriation;
- the expenditure is not prohibited by law; and
- the expenditure is not otherwise provided for.

The IIJA did not have a joint explanatory statement, legislative history, or a formalized Presidential budget request. Unlike an annual appropriation, it also lacked specific program,

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<sup>12</sup> 31 U.S.C. § 1301(a).

<sup>13</sup> An example of a formal budget request would be the President's budget submission, which is a "comprehensive budget request [submitted] to Congress... [outlining] the Administration's policy and funding priorities and the economic outlook for the coming fiscal year. This budget, which estimates spending, revenue and borrowing levels, is compiled by OMB from input by the various federal agencies, with funding broken down into 20 budget function categories." <https://budget.house.gov/about/budget-framework/>.





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project, or activity (PPA) restrictions.<sup>14</sup> As a result, the IIJA’s statutory language — “for risk management operations and stakeholder engagement and requirements” — is the only guidance defining IIJA’s purpose.<sup>15</sup> We did not identify any conflict between CISA’s expenditures and the IIJA statutory language describing the appropriation’s purpose.

CISA’s IIJA expenditures also do not appear to conflict with necessary expense analysis. Although the FY 2022 budget appropriation related to SRMA activities and the IIJA supplemental were similar in time, scope, and amount, these similarities do not prevent CISA from spending the funds. The language in the IIJA states that the funds are “additional,” which DHS interprets as permitting use for the same types of activities as the baseline funds, which equate to the annual appropriations.

In summary, the activities CISA had funded using the IIJA appropriation at the time of our fieldwork appear to support CISA’s cross-sector role. In addition, CISA’s planned use of these IIJA funds aligns with CISA’s standard financial controls processes and general appropriations requirements. Further, CISA has plans in place to spend the \$35 million in IIJA funding it received in November 2021 by FY 2026 as required. As of the end of FY 2023, CISA had spent approximately \$3 million and obligated approximately \$15.7 million — roughly 45 percent of the funds. According to CISA’s spend plan, the entire amount of IIJA funding will be expended by FY 2026.

### Management Comments and OIG Analysis

CISA chose not to submit management comments.

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<sup>14</sup> In a regular appropriation act, Congress will make an appropriation to an account, which may include one or more PPAs. Accompanying documentation may specify how funds are appropriated to particular PPAs. When an agency wants to move funds from one PPA to another, it is called reprogramming. An agency’s ability to reprogram may be restricted. See Congressional Research Service, *R47600, Transfer and Reprogramming of Appropriations: An Overview* (2023). For example, DHS’ FY 2022 budget appropriation restricted DHS’ ability to reprogram funds when a number of conditions were present unless DHS provided 15 days’ notice to the House and Senate Appropriations Committees. See *Consolidated Appropriations Act, 2022*, Pub. L. No. 117-103, 136 Stat. 49, 334-335.

<sup>15</sup> The IIJA guidebook language referencing the cross-sector role is similar to language drafted in response to requests from the Appropriations Committees relating to the FY 22 budget enhancement (appropriations response). Some CISA program officials described the appropriations response as technical assistance, although it was different than the technical assistance DHS submitted in December 2021. CISA program officials also said the appropriations response was useful when determining how to spend IIJA funds, although we were unable to identify a technical assistance or other information CISA submitted to Congress relating to use of IIJA funds prior to their appropriation. Regardless, according to a DHS official, DHS does not consider technical assistance to be compelling when determining an appropriation’s purpose.





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### Appendix A: Objective, Scope, and Methodology

The Department of Homeland Security Office of Inspector General was established by the *Homeland Security Act of 2002* (Pub. L. No. 107–296) by amendment to the *Inspector General Act of 1978*.

Our objective was to assess CISA’s process to ensure its use of IIJA funding will support or expand its national cross-sector role.

We conducted fieldwork for this evaluation between June and October 2023. Our scope was \$35 million in IIJA funds that will “remain available until September 30, 2026, for risk management operations and stakeholder engagement and requirements.”<sup>16</sup> We reviewed other appropriations to understand their relationship to the IIJA funds included in our scope. Our fieldwork included:

- reviewing laws and policies related to appropriations;
- analyzing data and information related to requesting, spending, and tracking IIJA funds;
- interviewing DHS employees who oversee or provide guidance on CISA budget execution;
- Interviewing a DHS OIG budget official who provided information about the appropriations process; and
- interviewing both current and former CISA employees involved in various budget and program operations.

Additionally, during fieldwork, we learned employees who may have had roles in certain appropriations-related activities at the time the IIJA was enacted had departed CISA. This turnover limited our ability to interview these individuals or ask these individuals to search for documents. Additionally, CISA has spent few of its IIJA funds and can continue to obligate these funds through September 30, 2026. Given the preliminary status of CISA’s IIJA-funded activities, we did not assess their impact on CISA’s cross-sector role, as described in the IIJA guidebook. At the time our fieldwork started, CISA had only spent a small amount of the IIJA funds — \$406 in IIJA funds during FY 2022 and approximately \$1.3 million in IIJA funds during FY 2023 (as of May 31, 2023) — though it had obligated funds beyond these expenditures.

We conducted this evaluation under the authority of the *Inspector General Act of 1978*, 5 U.S.C. §§ 401–424, and according to the *Quality Standards for Inspections and Evaluations*, issued by the Council of the Inspectors General on Integrity and Efficiency.

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<sup>16</sup> *Infrastructure Investment and Jobs Act*, Pub. L. No. 117-58, 135 Stat. 429, 1385.



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The major Office of Inspections and Evaluations contributors are Steven Staats, Chief Inspector; Brendan Bacon, Lead Inspector; Brittany Scott, Senior Inspector; Joshua Bradley, Inspector; Dorie Chang, Communications Analyst; and Jonathan Ban, Independent Referencer.

### **DHS OIG's Access to DHS Information**

During this evaluation, CISA provided timely responses to our requests for information and did not delay or deny access to information we requested.



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### **Appendix B: Report Distribution**

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