

1 EXAMINATION OF PUBLIC RELATIONS CONTRACTS AT THE  
2 GENERAL SERVICES ADMINISTRATION'S HEARTLAND REGION

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4 TUESDAY, MARCH 1, 2011

5 United States Senate,  
6 Senate Committee on Homeland Security and  
7 Governmental Affairs,  
8 Ad Hoc Subcommittee on Contracting Oversight  
9 Washington, D.C.

10 The Subcommittee met, pursuant to notice, at 10:07  
11 a.m., in Room SD-342, Dirksen Senate Office Building, Hon.  
12 Claire McCaskill, Chairman of the Subcommittee, presiding.

13 Present: Senators McCaskill and Portman.

14 OPENING STATEMENT OF SENATOR McCASKILL

15 Senator McCaskill. This hearing will come to order  
16 and, first and most importantly, before we do anything else,  
17 I want to welcome the new Ranking Member of the Committee,  
18 Senator Rob Portman. It is an honor to have you. I think  
19 we do great oversight work here.

20 It is not always the sexiest topic that we handle in  
21 the Senate, but it is really important because of the amount  
22 of money that is spent on contracting in this government has  
23 exploded and the oversight, at the same time, has not been  
24 as aggressive as it needs to be.

25 So, I will look forward to working with you, and I am

1 glad that you are somebody who has a great deal of  
2 experience in the Federal Government. I think you are going  
3 to be a tremendous asset to this effort and--not that I had  
4 any say as to who it was going to be, but I do not think the  
5 Republican Party could have picked a better person to be the  
6 Ranking Member of this particular Subcommittee, and I  
7 welcome you heartily.

8 Senator Portman. Thank you, I appreciate it.

9 Senator McCaskill. This hearing will now come to  
10 order.

11 Today's hearing focuses on public relations contract  
12 awarded by the General Services Administration. There are  
13 probably many Americans who have never heard of GSA, but GSA  
14 is the government agency that manages federal property,  
15 including federal buildings and courthouses across the  
16 country.

17 GSA also administers hundreds of billions of dollars of  
18 contract known as the Federal Schedules, which are used by  
19 other federal agencies to buy goods and services.

20 The contracts we are here to discuss today were awarded  
21 by GSA to help respond to concerns about the way GSA was  
22 managing the Bannister Federal Complex in Kansas City.

23 For those who do not know Kansas City, the Bannister  
24 Complex covers over 300 acres and has over 2,000 federal  
25 employees and 2,300 contractors working on its grounds.

1           Part of the complex, the Kansas City Plant, was  
2 originally built in 1942 to manufacture airplane engines for  
3 the Navy, and since 1949, has produced non-nuclear  
4 components for nuclear weapons.

5           Today, the Department of Energy administers the Kansas  
6 City Plant and the GSA administers the rest of Bannister.

7           Because of environmental contamination that happened at  
8 Bannister from the '50s through the '70s, the Federal  
9 Government has spent the last few decades working to clean  
10 up the pollution and testing to ensure that the facility is  
11 safe for the thousands of federal employees who work there.

12           In the past two years, a number of new reports have  
13 surfaced regarding environmental and health concerns at  
14 Bannister, and new investigations have been launched of the  
15 complex's safety, including a review by the GSA Inspector  
16 General.

17           To respond to these investigations, in February of 2010  
18 GSA awarded a contract to a small public relations company  
19 in Kansas City called Jane Mobley Associates.

20           Now, one of the Subcommittee's most important  
21 responsibilities is to ensure that when an agency awards a  
22 contract, it is doing so with the best interest of the  
23 American taxpayer in mind. This contract, through which GSA  
24 ultimately gave JMA more than \$234,000 for three months'  
25 work does not appear to be in the best interest of the

1 taxpayer.

2           According to GSA, the agent had an "urgent and  
3 compelling" need to award this contract because they were in  
4 the midst of a "crisis" caused by the news reports and  
5 federal investigations. And despite having numerous public  
6 affairs officials in Kansas City and Washington, the agency  
7 said they did not have anyone capable of dealing with the  
8 media or communicating with the people at Bannister.

9           At today's hearing, we will explore why GSA thought it  
10 would serve the American people and the taxpayers to spend  
11 hundreds of thousands of dollars to hire a public relations  
12 firm to communicate with federal employees when it already  
13 had people to do that job.

14           We will also explore the many problems that GSA, the  
15 Federal Government's main contracting agency, made in  
16 awarding and managing this contract. It was awarded in one  
17 day without nearly enough planning and with no competition.

18           One of the main rationales for using JMA was that it  
19 had extensive experience doing this kind of work for EPA,  
20 but GSA failed to do the basic legwork that would have  
21 revealed that JMA had never received any contracts from EPA.

22           It also looks like GSA essentially allowed the  
23 contractor to both decide what it was going to do and how  
24 much that was going to cost.

25           For the Federal Government, which routinely awards

1 contracts worth billions, this contract may seem like  
2 relatively small potatoes, but the award and the management  
3 of this contract is a case study, and it raises very serious  
4 questions about how GSA, which is responsible for both  
5 property and acquisitions for the government may have fallen  
6 short at both.

7 In addition, information provided at the Subcommittee  
8 shows that the Federal Government has spent billions on  
9 contracts for public relations and related services over the  
10 past five years.

11 While PR contracts like the one we will examine today  
12 may be legal, we need to be able to rely on our public  
13 officials to exercise sound judgment about when such a  
14 contract is actually necessary.

15 The American people may not know much about GSA, but  
16 they know that their government should be working for them.  
17 They do not want their taxpayer dollars wasted, and they do  
18 not want their government officials to be more concerned  
19 about protecting their public image than protecting them.

20 Today, we will have the opportunity to ask GSA  
21 officials whether they are meeting the standards expected of  
22 them.

23 The Administrator of GSA, Martha Johnson, is here  
24 today, and I want to thank her for joining us today.

25 She is joined by Robert Peck, who is the head of GSA's

1 public building services, and Mary Ruwwe, who is the head of  
2 Public Building Services in Kansas City.

3 Brian Miller, GSA's Inspector General, will also  
4 testify today.

5 I welcome all the witnesses and look forward to all  
6 their testimony.

7 I want to say, before we begin, that this is, frankly,  
8 in some ways, as I said in my formal opening statement,  
9 small potatoes because of the size of the contract involved,  
10 but if we do not break down contracting to a level where the  
11 American people can understand how it happens, where it  
12 happens, and why it happens, and whether indeed it is the  
13 best use of their dollars, we have no chance of this  
14 gargantuan problem of government contracting and how well it  
15 is being done.

16 So, in some ways, this may seem unfair. It may seem  
17 like we are picking on GSA, because I guarantee you there  
18 are contracts like this sprinkled throughout the Federal  
19 Government, contracts that are entered into in a hurry,  
20 without the appropriate oversight, without the appropriate  
21 scoping, without the appropriate planning, without enough  
22 concern about how much it costs, but I happen to know a lot  
23 about this one because it happened in Kansas City.

24 So, this is one of those times that there is good news  
25 and bad news. The good news is I know a lot about this

1 contract and the bad news for GSA is I happen to be from  
2 Missouri and Chair this Committee; so, it is an easy one for  
3 us to do a case study of.

4 But I want to say at the outset I perfectly well  
5 understand that this is not a problem that is just GSA's,  
6 and I perfectly well understand that the problems we are  
7 going to talk about today in contracting apply to every  
8 federal agency. And it just so happens that this is a  
9 perfect, manageable-sized contract, and we can do the  
10 timeline of exactly of what happened. And I think it will  
11 be illustrative to other federal agencies that this is not  
12 the way you are supposed to contract; this is not the way it  
13 is supposed to be done, and hopefully we will learn from  
14 this and other federal agencies will pay attention.

15 And I would now turn it over to the Ranking Member for  
16 his opening statement.

17 OPENING STATEMENT OF SENATOR PORTMAN

18 Senator Portman. Thank you very much, Senator  
19 McCaskill. It is an honor to be here today in my first  
20 Subcommittee hearing as your Ranking Member, and I am not  
21 quite sure how I ended up here, either, but I am glad I do.

22 As Chairman McCaskill has already noted, the  
23 Subcommittee does really deal with issues that really strike  
24 at the heart of how our government operates, and I look  
25 forward to the important work ahead.

1           We have got an enormous fiscal crisis facing the  
2 country, and a lot more tension on that, even this week, as  
3 we will be talking about the spending for this year. But at  
4 a time when we have these fiscal challenges, more than ever,  
5 we need to be sure that our tax dollars are being spent  
6 wisely and responsibly, and really, that is what this  
7 Subcommittee is about.

8           I want to commend the Subcommittee for its past work  
9 and Chairman McCaskill for the dedication to eliminating  
10 waste and fraud, abuse, mismanagement in government  
11 contracting.

12           I am told the Committee, and this Subcommittee in  
13 particular, was pretty busy over the last few years and had  
14 some big accomplishments. The Subcommittee looked at  
15 Arlington National Cemetery and came up with some badly  
16 needed reforms there, and I look forward to working with the  
17 Chairman and her staff in the days ahead on many of these  
18 issues.

19           I also want to note the contributions made by Senator  
20 Susan Collins and Scott Brown in the last Congress, both at  
21 the Subcommittee and full Committee level in this area of,  
22 again, ensuring that we are bringing federal contracting  
23 issues up and dealing with them in a responsible way.

24           As American families have tightened their belts and  
25 businesses learned to do more with less the last couple of

1 years, the Federal Government has grown and kind of gone in  
2 the opposite direction, and it is time for us to, again,  
3 ensure that money is being spent wisely and effectively and  
4 that effective oversight does occur.

5 I did serve for just over a year as the OMB Director,  
6 and there our goal was to put, as we said, the "M" back in  
7 OMB, and that meant getting at some of these very issues and  
8 we had some success in focusing on waste, better management,  
9 made that a top priority. We led initiatives to reduce  
10 improper payments, to enhance transparency over financial  
11 management, improved the management of the governments  
12 information technology investments and to consolidate  
13 duplicative systems.

14 And Chairman McCaskill said it is not necessarily the  
15 sexiest issue in government, but it is an incredibly  
16 important issue and I think effective oversight is crucial  
17 with government contracts. After all, if you look at it  
18 from a broad perspective, goods and services in government  
19 contracts now exceeds \$530 billion; that was the number from  
20 the last fiscal year. So this is a huge amount of money,  
21 and it is necessary that this Subcommittee and others  
22 provide better, as we said earlier.

23 Today's hearing does raise very important questions  
24 about transparency in our government and the appropriate use  
25 of contractors. It is a case study, as the Chairman said.

1 I am interested in learning more about.

2 I commend the Chairman for her investigations here, as  
3 well as the work she has done with Senator Roy Blunt and  
4 former Senator Kit Bond, and I look forward to hearing from  
5 the witnesses, and I thank them for being here today.

6 Thank you, Madam Chair.

7 Senator McCaskill. Thank you, Senator.

8 The Subcommittee staff has prepared a Memorandum  
9 regarding to the contract.

10 I move that the memorandum and the underlying documents  
11 that support the Memorandum be included in the record.

12 Senator Portman. Second.

13 Senator McCaskill. Without objection, those will be  
14 included in the record.

15 [The information follows:]

16 / SUBCOMMITTEE INSERT

1           Senator McCaskill. Let me introduce the witnesses and  
2 we will begin testimony.

3           Brian Miller has served as the Inspector General for  
4 the GSA since his confirmation by the Senate in July of  
5 2005. He is also Vice Chair of the National Procurement  
6 Fraud Taskforce and a member of the Department of Justice's  
7 Recovery Act Fraud Working Group.

8           Mr. Miller received the Attorney General's  
9 Distinguished Service Award in 2008. This is Mr. Miller's  
10 third appearance before this Subcommittee and his second  
11 this year.

12           Martha Johnson was confirmed as the Administrator of  
13 GSA on February 5, 2010. Prior to her appointment, Ms.  
14 Johnson worked in the private sector for Computer Sciences  
15 Corporation and SRA International. She served as Assistant  
16 Deputy Secretary at the Department of Commerce and was Chief  
17 of Staff at GSA during the Clinton Administration.

18           Robert Peck is the Commissioner of Public Buildings for  
19 GSA, a position he also held under the Clinton  
20 Administration. Mr. Peck previously served as Managing  
21 Director of Jones Lang LaSalle. He has also held positions  
22 at the Office of Management and Budget, the National  
23 Endowment for the Arts, and the Federal Communications  
24 Commission.

25           Mary Ruwwe--am I saying your name correctly, Ms. Ruwwe?

1 Ms. Ruwwe. Yes.

2 Senator McCaskill. Mary Ruwwe is the Regional  
3 Commissioner for the Public Building Service in the  
4 Heartland Region, which includes Missouri, Kansas, Iowa, and  
5 Nebraska. Ms. Ruwwe has served GSA in the Heartland Region  
6 for more than 20 years.

7 It is the custom of this Subcommittee to swear in all  
8 witnesses that appear before us. So, if you do not mind, I  
9 would ask you to stand.

10 Do you swear that the testimony you will give before  
11 the Subcommittee will be the truth, the whole truth, and  
12 nothing but the truth, so help you God?

13 Mr. Miller. I do.

14 Ms. Johnson. I do.

15 Mr. Peck. I do.

16 Ms. Ruwwe. I do.

17 Senator McCaskill. Let the record reflect that all the  
18 witnesses have answered in the affirmative.

19 We will be using a timing system today. We would ask  
20 that your oral testimony be no more than five minutes. Your  
21 written testimony, of course, will be printed in the record  
22 in its entirety and if, for any reason, that you feel, as a  
23 matter of fairness, you need longer than five minutes, of  
24 course the Committee will be happy to allow you that time.

25 And we will begin with you, Mr. Miller.

1                   TESTIMONY OF THE HONORABLE BRIAN MILLER, INSPECTOR  
2                   GENERAL, U.S. GENERAL SERVICES ADMINISTRATION

3           Mr. Miller. Madam Chair, Ranking Member Portman, thank  
4 you for inviting me here to testify this morning.

5           When President Truman created the GSA in 1949, he said  
6 that it would improve the government system of property  
7 management and procurement. Accordingly, GSA's two core  
8 missions are property management and procurement, both are  
9 in play at the Bannister Federal Complex in Kansas City,  
10 Missouri.

11           This morning, I will address my office's audit of  
12 environmental conditions at Bannister, and GSA's decision to  
13 contract with a public relations firm. My focus will be on  
14 my office's findings and GSA's response to those findings.

15           Our audit on environmental issues at Bannister found,  
16 first, that GSA did not have a strong environmental program  
17 at Bannister.

18           Second, that GSA did not take steps to protect workers  
19 when presented with evidence of potential hazards.

20           And three, that GSA provided incorrect and misleading  
21 information to both my office and the public.

22           Although GSA's written response to our report seemed  
23 primarily focused on defending itself in quibbling over  
24 words, we are encouraged by GSA's 2010 actions to enlist the  
25 assistance of EPA and NIOSH, the National Institute for

1 Occupational Safety and Health.

2 GSA also contracted with Jane Mobley Associates, JMA, a  
3 public relations firm. Although our audit is ongoing, we  
4 issued an interim audit memorandum to make GSA aware of the  
5 problems with the contract and to help prevent similar  
6 mistakes in the future.

7 The problems with the JMA contract include: GSA  
8 awarded a sole source contract without justifying why it did  
9 not consider other vendors.

10 Two, the scope of work was not adequately defined or  
11 priced. JMA itself apparently wrote the Statement of Work.

12 Third, the initial task order had no specific,  
13 measurable deliverables. GSA apparently did not know that  
14 it received what it wanted, so it relied on an EPA official  
15 to accept JMA's work and help approve payment.

16 And last, the contract extension simply was not  
17 justified. These problems produced a situation in which the  
18 government has no assurance that it paid a fair price for  
19 the services received.

20 GSA's response to our Audit Memorandum, like the  
21 response to our report on environmental issues, failed to  
22 fully acknowledge the extent of the problems. This gives  
23 little or no assurance that the same problems will not be  
24 repeated on future procurements.

25 In order to correct a problem, you must admit the

1 problem admits. GSA seems for whatever reason seems  
2 reluctant to take full responsibility for the errors in the  
3 JMA contract.

4       In order to fulfill its responsibilities as the Federal  
5 Government's property management and procurement expert, GSA  
6 must set a tone of taking immediate and decisive action to  
7 address any safety concerns of federal workers without  
8 waiting for an Inspector General review or congressional  
9 action to spur it to act, and it must ensure that all proper  
10 contracting procedures are followed. This has not been the  
11 case at Bannister in either the property management or  
12 procurement areas.

13       Thank you for inviting me here this morning and I  
14 welcome any questions from the Subcommittee.

15       [The prepared statement of Mr. Miller follows:]

1           Senator McCaskill. Thank you, Mr. Miller.

2           Ms. Johnson.

1           TESTIMONY OF THE HONORABLE MARTHA JOHNSON,  
2           ADMINISTRATOR, U.S. GENERAL SERVICES  
3           ADMINISTRATION

4           Ms. Johnson. Chairwoman McCaskill and Ranking Member  
5 Portman, I am Martha Johnson, Administrator of the General  
6 Services Administration. I took the oath of office on  
7 February 7th, 2010, and I am honored to serve in this  
8 capacity.

9           Thank you for the opportunity to appear before the  
10 Senate Subcommittee on Contracting Oversight today.

11          As requested, I am here today to speak to GSA's award,  
12 management, and oversight of the Jane Mobley Associates  
13 contract.

14          In November 2009, GSA's Heartland Region began to  
15 receive media and public inquiries revolving around health  
16 and safety issues at the Bannister Federal Complex.

17          And let me note, the Bannister Federal Complex consists  
18 of 5 million square feet of mixed-use space with 42  
19 buildings. GSA controls 12 buildings totaling 2 million  
20 square feet while the Department of Energy manages the  
21 balance of the facility. From the 1940s through the mid  
22 1970s, the ownership and control of the property was divided  
23 between the Department of Defense, the Atomic Energy  
24 Commission, and, later, the Department of Energy and GSA.

25          By late January 2010, these inquiries had increased

1 dramatically, causing unprecedented tenant and employee  
2 concerns about the safety of the Bannister Federal Complex.  
3 The quantity and complexity of these media inquiries, as  
4 well as various government reports regarding Bannister  
5 indicated the need for a more advanced level of  
6 communications expertise than the Region could provide in-  
7 house.

8         The Heartland Region consulted with the regional  
9 Environmental Protection Agency. Given EPA's experience  
10 with environmental communications, the EPA Associate  
11 Regional Administrator recommended a local communications  
12 firm, JMA.

13         In addition to their listed professional references,  
14 JMA had firsthand experience--firsthand environmental crisis  
15 management experience, experience with evaluating and  
16 translating technical data, and had previously worked with  
17 other government agencies. Relying on EPA's superior  
18 experience with environmental crisis management and  
19 communications, GSA sought guidance on framing the Statement  
20 of Work from EPA. EPA appropriately provided the required  
21 assistance and GSA then negotiated a final Statement of Work  
22 with JMA.

23         Upon finalizing the statement of work, the Heartland  
24 Region expedited the retention of JMA. The expedited  
25 timeline for selection was based on the existing urgent and

1 compelling circumstances. GSA believed that these  
2 circumstances existed because of employee and tenant  
3 concerns that conditions impaired their ability to work.

4 On February 5, 2010, the Region entered into a one-  
5 month contract for services with GSA. The Region and JMA  
6 developed a communications plan, discussed test results in  
7 reports commissioned by the EPA and NIOSH, and created a  
8 contingency plan for an alternate site for the childcare  
9 center.

10 Significant progress on local communications had been  
11 made after one month; however, the Heartland Region was  
12 still not comfortable in its capacity to respond to multiple  
13 inquiries from the media, current and former employees, and  
14 the public. Moreover, it was apparent that extensive  
15 outreach and coordination were still needed to address the  
16 public concerns.

17 On March 8, 2010, the Heartland Region issued a  
18 modification to the existing contract to extend the services  
19 under the original agreement. The scope of work and  
20 discussions with JMA made clear that the last two months  
21 were to serve as a transition period, during which GSA would  
22 assume and manage these responsibilities in-house. JMA  
23 assisted GSA in providing clarity on issues, performed  
24 extensive research, and facilitated meetings between GSA,  
25 EPA, and DOE.

1           JMA also assisted in the further development of the  
2 skills and knowledge of in-house staff in preparation for  
3 assuming the communications role for this issue.

4           In sum, GSA was faced with a series of complex issues  
5 at the Bannister Federal Complex, and since employee health  
6 and safety is our number one responsibility, the Heartland  
7 Region moved swiftly to address employee and community  
8 concerns and prevented continued harm to the agency.

9           Pursuant to the Inspector General's report which  
10 contained a list of recommendations, GSA has taken proactive  
11 steps, which I believe will further enhance the safety and  
12 management of Bannister.

13           First, we have developed an environmental work plan and  
14 quality assurance project.

15           Second, we have finalized a GSA regional environmental  
16 management system to manage and monitor the regional program  
17 in accordance with EPA guidance.

18           Third, we have established a system where information  
19 released goes through a multistep review process to ensure  
20 accuracy.

21           In view of the above, I believe these positive steps  
22 illustrate our true desire to achieve transparency,  
23 accountability, and better management of those challenging  
24 issues that have appeared at the Bannister Federal Complex.

25           This concludes my remarks, and I look forward to our

1 discussion today.

2 [The prepared statement of Ms. Johnson follows:]

- 1 Senator McCaskill. Thank you, Ms. Johnson.
- 2 Mr. Peck.

1           TESTIMONY OF ROBERT PECK, COMMISSIONER, PUBLIC  
2           BUILDINGS SERVICE, U.S. GENERAL SERVICES  
3           ADMINISTRATION

4           Mr. Peck. Madam Chair, Ranking Member Portman, and  
5 members of the public, thank you for inviting me to speak to  
6 you today regarding the General Services Administration's  
7 Public Building Service property management and public  
8 relations efforts in Kansas City.

9           Nationally, GSA manages a portfolio of more than 1,500  
10 federally owned buildings, and we house 1,100,000 federal  
11 employees from more than 100 federal agencies. As the  
12 Federal Government's landlord, it is our job to ensure that  
13 our buildings are safe, well functioning, and welcoming to  
14 our tenants and visitors. We strive at all times to be open  
15 and responsive in our communication with both tenants and  
16 the public.

17           On a daily basis, we manage building and tenant issues,  
18 including fire and life safety and environmental issues. We  
19 conduct periodic surveys and assessments of our buildings to  
20 ensure that they are well functioning and safe for tenants.  
21 We even survey our tenants to make sure they think we are  
22 doing a good job and that the buildings are appropriate as  
23 work spaces.

24           As specific concerns arise from tenants, GSA assess the  
25 nature and scope of the problem, usually via studies or

1 tests, and then addresses the problem as those assessments  
2 indicate is necessary.

3 We often contract with third parties to conduct these  
4 evaluations to ensure that we receive independent  
5 assessments, and we also often contract with third parties  
6 to carry out corrective measures.

7 In fact, most routine mechanical maintenance and  
8 cleaning functions in federal buildings are carried out by  
9 third party contractors, as well.

10 If we determine that an environmental problem does  
11 exist within a facility, we immediately take corrective  
12 measures. Most of the issues that arise in our buildings  
13 never become a public concern because GSA's experts are able  
14 to collaborate effectively with tenants to dispel their  
15 concerns. GSA relies on our in-house communication experts  
16 to share accurate information with our tenants.

17 And as I said, we routinely manage communication issues  
18 and handle media inquiries with in-house staff; however, we  
19 can seek the assistance of outside communications resources  
20 when we identify either a lack of capacity or expertise on a  
21 specific subject matter, and that was the case in the  
22 Bannister Complex in Kansas City.

23 The situation there became particularly urgent due to  
24 voluminous information requests, media reports, and  
25 concerned tenants who had questions regarding the safety of

1 their workplace.

2 Before we retained JMA, Jane Mobley Associates, GSA was  
3 already working closely with tenants to understand and  
4 address their environmental concerns at the Bannister  
5 Complex. Over the years, GSA has frequently monitored and  
6 evaluated conditions in the building and communicated back  
7 to tenant leadership that these evaluations established and  
8 maintained that the building is safe for occupancy.

9 We were concerned that, despite our best efforts in  
10 late 2009, tenant employee concerns seemed to indicate that  
11 our efforts were not satisfying tenants and not making them  
12 feel confident about their safety at the complex. At that  
13 time, in late 2009, we saw an increase in inquiries and  
14 requests for information, which we initially managed on our  
15 own.

16 But eventually, giving the significant burdens on our  
17 public affairs staff in the Region, we did go out and seek  
18 assistance from JMA. They helped us develop a plan to  
19 handle a large number of communication inquiries and  
20 effectively communicate the complex and technical results of  
21 our many environmental studies assessing the safety of the  
22 building. This, our response, reflected the results of  
23 numerous assessments, and I would emphasize again that all  
24 testing to date at Bannister indicates that no health risk  
25 exists.

1           JMA was hired off of a GSA multiple award schedule, as  
2 it is called, which offers--our multiple award schedules  
3 offer federal agencies a streamlined means of acquiring  
4 services in numerous areas, including public relations.

5           Prices for services on the schedules have already been  
6 determined to be fair and reasonable before a firm is put on  
7 the schedule, and it is that price review--is done by  
8 reviewing prices offered to similarly situated commercial  
9 customers.

10          We at GSA take our obligation seriously to provide safe  
11 federal facilities for our employees, the employees of our  
12 tenant agencies, and the visiting public.

13          We fully understand and are committed to effectively  
14 communicating with employees and the public about the steps  
15 we are taking to assure their safety.

16          The urgency of this obligation in Kansas City  
17 necessitated that we seek additional resources. Our  
18 response in Kansas City was not propoganda in the legal  
19 sense and in--and it was a legal use of government  
20 contracting authority.

21          Madam Chair and Ranking Member Portman, I am happy to  
22 answer any questions you have. Thank you, again, for the  
23 opportunity to be here.

24          [The prepared statement of Mr. Peck follows:]

1           Senator McCaskill. Thank you, Mr. Peck, and thank you  
2 for your public service.

3           Ms. Ruwwe.

1           TESTIMONY OF MARY RUWWE, REGIONAL COMMISSIONER,  
2           PUBLIC BUILDINGS SERVICE, U.S. GENERAL SERVICES  
3           ADMINISTRATION

4           Ms. Ruwwe. Good morning, Madam Chair, Ranking Member  
5 Portman, and members of the Subcommittee.

6           My name is Mary Ruwwe, and I am the Regional  
7 Commissioner of GSA's Public Building Service in the  
8 Heartland Region.

9           Thank you for inviting me to join you today to discuss  
10 PBS's use of public relation services with Jane Mobley and  
11 Associates at the Bannister Federal Complex in Kansas City.

12           As a public official, my primary responsibility is to  
13 ensure the health and safety of people working in and  
14 visiting GSA facilities. When concerns are raised regarding  
15 environmental safety in our buildings, GSA works diligently  
16 to address those concerns. This is certainly true in the  
17 case of the Bannister Federal Complex.

18           Over the years, GSA has continually monitored the  
19 complex. We have conducted hundreds of environmental tests.  
20 All of these tests have indicated that the facility has been  
21 and remains a healthy environment for our employees, the  
22 tenants, and the public.

23           Until recently, GSA relied on in-house communications  
24 experts to relay information to the community. In early  
25 2010, circumstances changed drastically. Tenant and public

1 inquiries significantly increased and the situation became  
2 more complex due to amplified media concerns resulting in  
3 employees' heightened fears of unsafe conditions.

4 At GSA, we realized we needed additional resources and  
5 technical assistance to fully and accurately characterize  
6 the developing situation. As a result, GSA procured  
7 communication services from Jane Mobley and Associates, who  
8 I will refer to as JMA.

9 With JMA's assistance, GSA acted swiftly to address  
10 employee and community concerns.

11 Madam Chair, I take all matters of employee health and  
12 workplace safety seriously and always work to ensure that  
13 appropriate action is taken to provide safety--safe and  
14 healthy facilities. Along with this responsibility comes a  
15 parallel duty to communicate with the public honestly,  
16 promptly, and effectively.

17 Until early 2010, there was an ebb and flow of  
18 environmental testing and occasional concerns at Bannister.  
19 With the release of certain media stories in late 2009,  
20 information began to increase to two or three inquiries per  
21 week. During this time, GSA's single in-house  
22 communications staffer handled this outreach.

23 Then, in late January 2010, circumstances changed  
24 radically. Over the course of seven days, multiple events  
25 pushed us beyond our in-house communication capabilities.

1 We experienced a significant increase in inquiries and  
2 requests for additional testing.

3 A protest was staged outside our childcare facility.  
4 We were also challenged with the need to coordinate among  
5 federal, state, and local regulators. These new events,  
6 together with a surge in media attention stoked by rumors  
7 and misconceptions created an unpredictable and  
8 unprecedented pressure cooker environment. There was an  
9 urgent need to get the facts and the truth to the public.

10 In consultation with the EPA, GSA decided to procure a  
11 communications expert from GSA's multiple award schedules.  
12 GSA selected JMA, a local small business with government  
13 experience, knowledgeable of crisis management, and  
14 experienced at digesting and translating technical data.

15 With the firestorm of events in 2010 coupled with our  
16 limited staff's lack of crisis management expertise,  
17 following the typical ordering procedures would have  
18 resulted in unacceptable delays.

19 Before a vendor can be awarded a scheduled contract,  
20 its offered prices must be determined to be fair and  
21 reasonable. Although not required to do so, GSA conducted a  
22 price comparison from three vendors. JMA was a local small  
23 business and had the lowest cumulative rate and required  
24 skills set to accomplish the work successfully.

25 GSA determined that JMA was the best vendor to meet our

1 needs through a firm fixed-price contract. GSA and JMA  
2 worked closely together to develop and launch a  
3 communications and contingency plan. The whole time, GSA  
4 has--throughout this whole time, we have maintained our role  
5 as spokesperson and directly oversaw all messaging and  
6 outreach efforts.

7 By the end of the February, significant progress had  
8 been made; however, there is still a high volume of  
9 inquiries and concerns. For that, GSA extended JMA's  
10 services for another two months.

11 During a turbulent, unique period for GSA, JMA was able  
12 to assist us in a short timeframe in effectively and timely  
13 communicating the facts to the community to help calm fears  
14 and dispel misperceptions.

15 At GSA's request, the National Institute of  
16 Occupational Safety and Health conducted a health hazard  
17 evaluation at the GSA complex and did not find any cases of  
18 health concerns. Based on an extensive review and the  
19 current work plan, the National Institute for Occupational  
20 Safety and Health does not recommend any additional testing  
21 at this time.

22 The Bannister Complex has been and continues to be a  
23 healthy place to work. Based on testing results from the  
24 past two decades, the GSA controlled space at the Bannister  
25 Federal Complex is believed to possess no health risks to

1 workers, visitors, or children at the childcare center.

2 GSA will continue to ensure the safety of those working  
3 and visiting the Bannister Federal Complex. As well, we  
4 will continue to partner with the Environmental Protection  
5 Agency and the National Institute for Occupational Safety  
6 and Health to execute our environmental work plan and  
7 address health concerns.

8 Madam Chair, Ranking Member Portman, and members of the  
9 Subcommittee, this concludes my statement. I would be  
10 pleased to answer any questions you may have.

11 [The prepared statement of Ms. Ruwwe follows:]

1 Senator McCaskill. Thank you.

2 Thank you all for being here.

3 And if the staff would go ahead and set our timers up  
4 here so I can be aware of how much time I take so that I can  
5 make sure and go to Senator Portman at an appropriate  
6 interval and we will continue to go back-and-forth asking  
7 questions until we have had all the questions answered that  
8 we are curious about.

9 Let me start with this: Ms. Johnson, did you do  
10 anything wrong in this contract? Did GSA do anything wrong?

11 Ms. Johnson. We did nothing wrong with this contract.

12 Senator McCaskill. Mr. Peck, did GSA do anything wrong  
13 in the way they issued this PR contract?

14 Mr. Peck. We did not do anything wrong with this  
15 contract.

16 Senator McCaskill. Okay. Bad start.

17 Let us start with the Statement of Work. Would it be  
18 typical in contracting to allow the contractor to write the  
19 Statement of Work, Mrs. Johnson?

20 Ms. Johnson. The normal course is that a contracting  
21 officer does not write the Statement of Work; it is written  
22 by the recipients that are the best knowledgeable people for  
23 receiving the services on the contract. So, the recipients  
24 are the authors of the statements of work.

25 Senator McCaskill. So, you think it would be typical

1 and good contracting practice to allow the contractor to  
2 write the work that was going to be performed, as opposed to  
3 the government laying out the work that they needed  
4 performed?

5 Ms. Johnson. Typically. That is not what happened in  
6 this case, but yes, I would say that is--

7 Senator McCaskill. But that is what happened in this  
8 case; is it not? Did not the contractor write the Statement  
9 of Work?

10 Ms. Johnson. Let me just begin by saying I was not in  
11 office at this time. So, I am--I am--I want to be very  
12 careful because I am under oath to be sure that I am giving  
13 you the accurate statements, but I have been briefed on this  
14 and I believe I understand what happened.

15 The Statement of Work was given to us by EPA at our  
16 request. We asked EPA to help us with this, because EPA is  
17 quite knowledgeable and experienced in communications work  
18 with the public around technical and scientific issues.  
19 They provided us with the Statement of Work. We did not  
20 understand until very recently that it was composed by JMA.

21 Senator McCaskill. Okay. Let me ask again; I am  
22 confused, now.

23 Do you think it should have been composed by JMA or it  
24 should have been composed by the government?

25 Ms. Johnson. It should have been composed by the

1 government.

2 Senator McCaskill. So, and in this sense, since you  
3 are aware that it was not composed by the government?

4 Ms. Johnson. We learned that it was not, very  
5 recently.

6 Senator McCaskill. So, would that be something that  
7 was done wrong?

8 Ms. Johnson. That would be--yes, that was incorrect  
9 procedure.

10 Senator McCaskill. Okay. So, let me read for the  
11 record:

12 On February 4th--and I should point out also, for the  
13 record, I believe that is the same date that Senator Bond  
14 requested an IG investigation; is that correct?

15 Ms. Johnson. I do not know the date.

16 Senator McCaskill. It was the day after. I believe it  
17 was the day after the IG investigation was requested by  
18 Senator Bond.

19 Ms. Johnson. I will defer to--

20 Senator McCaskill. Okay.

21 Ms. Johnson. I will defer to your--

22 Senator McCaskill. Okay. I believe if--let me do the  
23 chronology and then either you or Mr. Peck speak up if I am  
24 getting the chronology wrong.

25 There had been a number of high-profile media reports

1 beginning in November of 2009 concerning the safety of  
2 Bannister, including a list that had been compiled of 95  
3 people that had contracted cancer, including television  
4 reports that were very--I think I am being fair to say that  
5 they were inflammatory about the safety of Bannister. This  
6 began in the fall of 2009.

7 And then, in February, on February 3rd, there was a  
8 call for an Inspector General investigation of what had  
9 happened--what was ongoing at Bannister in terms of the  
10 safety at the complex.

11 And it was the next day, I believe, that there was a  
12 decision made to try to hire a PR firm.

13 Is that a correct chronology? Does anyone want to  
14 disagree with that chronology?

15 Mr. Peck. No, ma'am. I am looking at my chronology  
16 and there was a report in the Kansas City Star on the 4th of  
17 February saying that Senator had called for a new study on  
18 toxins.

19 Senator McCaskill. Okay.

20 Mr. Peck. So, that may well be.

21 Senator McCaskill. Okay. So, and it was actually  
22 executed--this task order was actually done in a day;  
23 correct? Was it not one day, 24 hours?

24 Ms. Ruwwe. We issued the Statement of Work to Jane  
25 Mobley and Associates on February 4th and it was awarded on

1 February 5th.

2 Senator McCaskill. Well, I do not think you issued it.

3 Let me read an e-mail:

4 Early on February 4th, 2010, Jane Mobley asked one of  
5 her employees to prepare a Statement of Work. Quote--in an  
6 e-mail--"Rich needs a Statement of Work for what needs to be  
7 done, although they don't really know. So, it needs to be  
8 general enough to fit everything in we could find under  
9 every rock we could turn over. He was hoping we had or  
10 would know where to find a boilerplate SOW"--Statement of  
11 Work--"so that they could write a contract right away."

12 "Yeah, right."

13 Are you all aware of that e-mail exchange between Rich  
14 Hood at the EPA and the contractor?

15 Ms. Johnson. I am not.

16 Senator McCaskill. So, you have not read any of the  
17 information concerning this, that is contained in the  
18 documentation we have in front of the Committee.

19 Ms. Johnson. No, I have read that but I--

20 Senator McCaskill. You are not aware of that? Okay.

21 Ms. Johnson. I do not recall that one.

22 Senator McCaskill. Later that morning, Mr. Hood  
23 informed Ms. Mobley that he was trying to locate a scope or  
24 Statement of Work generic off-the-shelf, but it was very  
25 slow going.

1           In response, Ms. Mobley stated, "Don't look too hard,  
2 we can send one."

3           Now, do either you, Ms. Johnson or Mr. Peck--do you  
4 think that is the way that we should enter into contracts  
5 for a quarter of a million dollars--or for a hundred grand  
6 for a month?

7           Mr. Peck. That is not the way we--that is not the way  
8 we want to enter into any contract. We want--

9           Senator McCaskill. So, would that be a mistake?

10          Mr. Peck. --we want to--well, let me just clarify.

11          Our guidance, our rules, are that we write--that the  
12 government writes scopes of work. Again, I was not on the  
13 ground, either, but I believe that our people believed that  
14 the scope of work had been written by the government. I do  
15 not believe that the people who it is--as far as I know, the  
16 people at GSA who issued the scope of work did not know the  
17 scope of work had been written by the contractor.

18          Senator McCaskill. And why was the EPA asking a  
19 contractor to write a scope of work for the GSA? Why would  
20 that occur? That would not be appropriate contracting  
21 either, would it?

22          Mr. Peck. Well, it is not inappropriate for us to ask  
23 a federal agency with some expertise to help us draft a  
24 scope of work for a contract that is, in part--at least  
25 partly in there are of their expertise. That is a

1 government--that would be a government work product.

2 And in fact, in this case, what we were doing was  
3 asking an agency, the EPA, which had--just as we have asked  
4 National Institute of Occupational Safety and Health to come  
5 in and help us because this is their area of expertise.

6 Senator McCaskill. So, you--

7 Mr. Peck. So, that is why I think--believe that we  
8 asked EPA for some help on this.

9 Senator McCaskill. Mary, did you think Rich Hood wrote  
10 this scope of work? Rich Hood is the individual at EPA.  
11 Did you think he wrote this scope of work?

12 Ms. Ruwwe. Yes, I did. In fact, I received the scope  
13 of work directly from Rich.

14 Senator McCaskill. And did you ask him if he had  
15 written the scope of work.

16 Ms. Ruwwe. No, I did not.

17 Senator McCaskill. You just assumed he had written it?

18 Ms. Ruwwe. Yes.

19 Senator McCaskill. All right. I have taken up five  
20 minutes. I am going to turn it over to Senator Portman and  
21 I will come back for more questioning.

22 Senator Portman. Thank you, Madam Chair.

23 And I think the point made earlier that this is a  
24 relatively small contract compared to the hundreds of  
25 billions of dollars every year that the Federal Government

1 contracts for goods and services but that this does present  
2 some issues, and GSA should be the model contractor, of  
3 course, since you have such a fundamental responsibility in  
4 government contracting generally. And I think it is  
5 important that we understand what happened here and we are  
6 sure that the guidance that you are giving GSA and therefore  
7 the model you are providing for the rest of the government  
8 is clear.

9         And I must say, I am a little concerned about some of  
10 the responses to the Chairman's questions, because it seems  
11 that maybe there is some confusion, but it sounds like, Mr.  
12 Peck, if I could go back to your response, that your rules  
13 would provide that--you said the government writes the scope  
14 of work, but where the GSA has a contract, they can consult  
15 with other agencies, but GSA ultimately is responsible for  
16 the scope of work, not the--as Administrator Johnson said--  
17 not the recipient or the contractor; is that correct?

18         Mr. Peck. Yes, sir.

19         Senator Portman. So, that is good to have clarified.

20         My question that I had, having looked over the file,  
21 is, why did you not use your in-house expertise?

22         And just this morning, listening to your testimony, Mr.  
23 Peck, you talked about the fact that you thought your in-  
24 house communications folks were not up to the task because  
25 there was such a burden on the public affairs in the Region.

1 I think that was your quote, and I look at what GSA has and,  
2 by my count, I think you have 49 communication staffers, 20  
3 of those, looking at the list, have over 20 years of  
4 experience. So, you have some very experienced public  
5 affairs folks. And I understand that most of those  
6 communication resources are based in Washington, not based  
7 in Ms. Ruwwe's region, but if the burden was on the regional  
8 public affairs officers, would it not be natural for you to  
9 use your significant resources that you have in Washington  
10 and around the country to assist a region such as Ms.  
11 Ruwwe's?

12 And I guess I would ask Ms. Johnson and Mr. Peck on  
13 that.

14 Ms. Johnson. Certainly, let me begin.

15 The demands on the Region in this case were unusual.  
16 It was not just a burden in terms of scale, in terms of the  
17 number of requests. This was a situation in which there was  
18 technical information, and I mean, 124 tests over 20 years  
19 is a lot of material to share with the public and to help  
20 them understand that the Bannister Federal Complex is a safe  
21 and healthy workplace.

22 It is the technical competence that we were after that  
23 we do not keep in-house. We do not have these kinds of  
24 requests on us that often for this kind of media and public  
25 affairs information training--understand explanation. We

1 are--to do that would be rather extravagant, it would be  
2 fairly specialized, and in this case we needed that kind of  
3 expertise, not just your typical press releases, Web pages,  
4 internal communications, but we needed people who were able  
5 to help us distill complex, long-running information and  
6 help teach and train and communicate that to the public.

7       If we were to turn to the central office, we would not  
8 have found it there, either. Long experience in this  
9 demonstrates that we did not need to have it on staff. It  
10 would have been extravagance to have this kind of permanent  
11 staff because we just do not have a need for it.

12       So, this is when we go out and contract. This is what  
13 outsourcing is all about at times. It is going and finding--  
14 -finding the support and the resources that you need when  
15 you need them, rather than staffing up around it.

16       Mr. Peck. And Senator, we did--you asked a good and  
17 fair question, which is did we look to some of our other  
18 communication specialists who are already on staff in the  
19 agency to see if we had the kind of expertise that the  
20 Administrator talked about, and we asked the question and we  
21 did not have on board at the time people who we thought  
22 could handle these particular communication issues.

23       One other thing I will just note is that we recognized  
24 the need, these things do crop up, and one of the things the  
25 Region did in the course of administering the contract was

1 to make sure that in-house staff were trained in how to  
2 handle these kinds of issues in the future in Kansas City.

3 Senator Portman. Okay. I guess I had not seen it in  
4 the record anywhere that you had asked the question.

5 So, you say there was an inquiry made of particularly  
6 the Washington, D.C. staff as to whether they were capable  
7 of handling this.

8 Mr. Peck. Yes, sir.

9 Senator Portman. It was not just that it was a burden  
10 on the regional public affairs officials, and I assume you  
11 have a record of that, that you contacted the Washington,  
12 D.C. public affairs officials and asked them if they had the  
13 expertise.

14 Mr. Peck. I have scanned my e-mails and I do not think  
15 I have found an e-mail that says that, but I recall the  
16 conversations.

17 Senator Portman. Okay.

18 And in terms of having the technical information from  
19 the outside, to the extent that that was the issue, the  
20 technical competence you were looking for to be able to  
21 distill complex technical issues, was the contractor you  
22 chose someone who had that specialized environmental  
23 background? Was that why--did they have technical  
24 expertise?

25 Mr. Peck. You would have to ask--

1 Senator Portman. Is that the reason you went outside?

2 Mr. Peck. Can I defer to Ms. Ruwwe?

3 Ms. Ruwwe. Can you repeat the question? I was writing  
4 a note that I wanted to make sure I commented on.

5 Senator Portman. No, it was just--again, I am trying  
6 to generalize here, and when is it appropriate to use  
7 outside contractors, and the response was it was necessary  
8 because it is not just that you are public affairs folks who  
9 are overwhelmed, but rather it was that there was technical  
10 information based on years of environmental studies and  
11 reports that was not something that was within your  
12 expertise. So, you felt you had to go outside to get  
13 technical expertise. So, I assume the firm that you  
14 contracted with had environmental technical expertise.

15 Ms. Ruwwe. They--Jane Mobley and Associates has  
16 expertise in conveying technical data--this sort of nature  
17 of technical data and conveying in layman's terms. That is  
18 their expertise, and we partnered with the Environmental  
19 Protection Agency--actually, I consulted with, if I may  
20 expand upon the question that you were asking Commissioner  
21 Peck, I personally consulted with our central office.

22 In fact, we had a senior leader that formerly worked  
23 for the Environmental Protection Agency, and she recommended  
24 that we seek assistance from the Environmental Protection  
25 Agency because of the fact that, one, we were already

1 working with them to conduct some testing in the childcare  
2 center, and they have--their expertise is conveying  
3 environmental information in layman's terms.

4 And so, I also consulted with our chief of  
5 communications at that time, Sahar Wali, and I do have  
6 evidence in an e-mail where I consulted with her on the  
7 Statement of Work.

8 Senator Portman. On the statement--Ms. Ruwwe, can I  
9 interrupt you just for a second because my time is coming to  
10 an end.

11 I think Mr. Peck's comments earlier that it is  
12 appropriate to look in-house for other governmental  
13 expertise, as you all did with EPA, is part of the rules and  
14 guidance you talked about earlier.

15 And Ms. Ruwwe has made that point in terms of why she  
16 looked to EPA, and my question would be--and then I will  
17 turn it back to the Chairman, EPA has a lot of public  
18 affairs specialists. I do not have the number in front of  
19 me, but it is more than your 49--again, 20 of whom have 20  
20 years of experience--so, it is not like you do not have  
21 experience. But to the extent you were looking for  
22 technical public affairs expertise, and to the extent that  
23 you were looking to the EPA, anyway, including being the go-  
24 between for a Statement of Work that ended up being written,  
25 I guess, by the contractor, would it not have made sense to

1 go to the EPA? Should that not be part of your rules and  
2 guidance to the extent that you are looking to the EPA  
3 anyway in this case, particularly to see whether they had  
4 the public affairs expertise that you needed.

5 Ms. Ruwwe. I can take that as well.

6 When I called the local Region 7 Environmental  
7 Protection Agency Office, and we had been working with them  
8 already on the testing, and I talked with their media  
9 relations expert, and I asked him, can your office provide  
10 us help in communications assistance, and to which he  
11 replied, personally, that they could not provide the help  
12 in-house. They, too, were stretched at that moment in time,  
13 and he recommended that we seek contracting expertise.

14 Senator Portman. And did you contact the higher levels  
15 at GSA regarding this to see whether the national office at  
16 EPA was going to be helpful?

17 Ms. Ruwwe. I had consulted with our national office on  
18 it, and I made the personal decision to go ahead and  
19 contract for that expertise, based on the fact that we did  
20 not have the resources at central office, nor did EPA have  
21 the resources in-house, and we did not have the resources  
22 regionally, as well.

23 Senator Portman. All right. Again, I think I will go  
24 back to the Chairman. I am sorry for taking so much time.

25 Senator McCaskill. That is okay. Take all the time

1 you need. Yes.

2 Senator Portman. But this relates to the general  
3 question that is being raised here: What should the rules  
4 be and the guidance be and, per Mr. Peck's earlier comments  
5 about using EPA and why that was appropriate, it seems to me  
6 it would also have been appropriate to look for that public  
7 affairs expertise. Certainly, it exists and probably,  
8 actually, in terms of technical information, would be the  
9 better place to go rather than a small business in Kansas  
10 City.

11 Thank you, Madam Chair.

12 Senator McCaskill. The contractor that was hired had  
13 really never had a contract with EPA; is that not correct?

14 Ms. Ruwwe. Looking back on the information I believe  
15 they had not had experience working directly with the  
16 Environmental Protection Agency.

17 They had experience previously with the media relations  
18 person that I was working with, but they also had  
19 significant experience with other federal agencies, a lot of  
20 work especially with the Department of Defense.

21 Senator McCaskill. And that is probably a subject for  
22 another hearing, how many people do we have working in  
23 public affairs in the Federal Government, and when do they  
24 not adequately train or have people on staff ready to do  
25 this. Let me just follow up a little bit on the subject

1 before I go to the next subject.

2 Mr. Peck, you cited two examples in your opening  
3 statement of where your agency had done good work in terms  
4 of safety issues. I believe there was a metro station--  
5 refresh my memory of the two different examples. Silver  
6 Spring and--

7 Mr. Peck. There is Silver Spring, Metro Center--here  
8 in Silver Spring at a metro station, and the other was the  
9 former Department of Transportation headquarters in a leased  
10 building in Washington.

11 Senator McCaskill. Were there PR contracts issued in  
12 either one of those instances?

13 Mr. Peck. Not that I can tell. It did not--we did not  
14 find--long before my time--well, I take that back, they  
15 lopped over into my first tenure at GSA. In neither case  
16 did we find it necessary to get outside contracting help for  
17 those instances.

18 Senator McCaskill. So, you had, in those instances,  
19 you had people in-house that could handle communicating to  
20 the public about potential workplace environmental issues?

21 Mr. Peck. Yes, ma'am.

22 There are two distinctions. We did find significant--  
23 some significant problems in the Department of  
24 Transportation building and moved a portion of the agency  
25 out of the building while we made the landlord conduct

1 cleanup.

2 And in the Silver Spring Metro Center, if memory serves  
3 me right, we had not yet occupied the part of the building  
4 that had some problems. So, I do not--but in both cases, we  
5 actually had a significant environmental issue which we  
6 could deal with. It was a different communication issue,  
7 then.

8 Senator McCaskill. And I believe the number is--you  
9 have three GS14s and one GS15 with a combined 90 years of  
10 federal service and average salary of \$128,000 a year.

11 You had eight individuals, including the individual  
12 responsible who were at a GS13 level or higher.

13 That is a serious payroll for your agency in terms of  
14 public affairs specialists. So, do you think, looking back  
15 on it, that crisis management should have been part of the  
16 core competency of--I mean, those are--most of those are  
17 senior and executive. They, I think, enjoy not only six-  
18 figure salaries but most of them get bonuses approximating  
19 10 percent year-in and year-out.

20 Should not all of our staffs that are hired to handle  
21 the public affairs of our agencies, be ready to handle  
22 crisis management, even explaining technical issues in  
23 layman's terms?

24 I mean, I--we have to explain technical issues in  
25 layman's terms all the time. I mean, welcome to--the

1 intricacies of public policy translated in a way that is  
2 easily digestible to the public. It seems to me that is a  
3 core competency of public affairs specialists.

4 Ms. Johnson. Senator, I have to say that, from my  
5 tenure in the '90s to my current tenure, there is a great  
6 deal more media interest in what we are doing.

7 And I would agree that, going forward, it would be  
8 significantly useful to have people with those kinds of  
9 competencies. I honestly do not believe in the past we have  
10 needed that and it would have been one of those additional--  
11 as I said before, it would have been extra staff. It would  
12 have been people trained in things that we would just not  
13 have been using.

14 But I do believe, in this current environment, there is  
15 a lot more interest in what we are doing, delightfully so,  
16 and that we have a good story to tell and a complex story to  
17 tell, and I would say, going forward, this would be a core  
18 competency that would make sense to consider, and staff,  
19 too.

20 Senator McCaskill. Let us look at the contract  
21 extension.

22 The first contract was for \$100,000--under \$100,000--  
23 just under, correct?

24 Mr. Peck. Yes, ma'am.

25 Senator McCaskill. Is it a coincidence, Mr. Peck, that

1 that is just under the threshold of a number of other  
2 contract requirements that kick in at \$100,000?

3 Mr. Peck. Madam Chair, I would not want to speculate  
4 on that. I did not write the contract and I do not know how  
5 the amount got decided upon.

6 Senator McCaskill. But it is true that this contract  
7 came right in under what would have kicked in a lot of--more  
8 oversight of the contract; correct?

9 Mr. Peck. Yes, ma'am.

10 Senator McCaskill. And then, the extension stays in  
11 that sandbox instead of being a different, new contract  
12 where there would in fact be more oversight; correct?

13 Mr. Peck. The extension was--I am sorry. Say that  
14 again.

15 Senator McCaskill. Well, because it was an extension  
16 of an existing contract that came under the 100,000, it  
17 stayed within the parameters of the original contract  
18 instead of kicking in that \$100,000 threshold that causes  
19 more oversight; correct?

20 Mr. Peck. I am not sure.

21 You are beyond my contracting expertise on that.

22 Ms. Ruwwe. And I have slight knowledge.

23 In this case, there was no reason to keep the  
24 contracting price under \$100,000. If the price came in at  
25 above \$100,000, there is nothing--the contracting officer

1 would have had to document--put more documentation in the  
2 acquisition plan, but there was no reason to keep it under  
3 100,000, nor was there a reason to keep it at the \$234,000  
4 mark. The threshold actually kicks in at \$550,000.

5 Senator McCaskill. Let us talk about the extension.

6 You modified the task order to extend it for 2 months  
7 at a cost of \$134,000. Included in the work order on the  
8 extension was to introduce the new Regional Administrator to  
9 external audiences.

10 Huh? I am curious where that came from, and did you do  
11 that with all the regional appointments? Did you hire  
12 contractors to introduce them to the leaders of the  
13 community? Did you hire--

14 Ms. Johnson. No, we did not.

15 Senator McCaskill. Well, why was that done here?

16 Yes.

17 Ms. Ruwwe. I can take that one.

18 When Jason Klumb came on board, in his introduction--  
19 his initial introduction to the Region, he wanted to address  
20 the environmental situation at the Bannister Federal  
21 Complex, and we thought it was appropriate for Jane Mobley  
22 and Associates to help, again, convey that level of an  
23 enormous amount of complex information in a short amount of  
24 time. He did not want that to take away from his  
25 introduction speech, but--

1           Senator McCaskill. So, you asked him. You asked him  
2 whether or not he thought this contract extension was a good  
3 idea, did you not, Ms. Ruwwe?

4           Ms. Ruwwe. We had a dialogue. He--in the first week  
5 in March when we were getting ready to extend the contract,  
6 he questioned the cost of the contract and he wanted to know  
7 whether or not we could bring that in-house, and he sought  
8 my advice on that, and my recommendation was that, yes,  
9 while we had made significant headway in that first month,  
10 we were still significantly under-resourced in complexity  
11 and just the resource in order to handle the information  
12 that we needed to convey and the work that had to be done.  
13 And so, we did extend the two-month contract, and what I  
14 conveyed to Jason Klumb at that time is that our intent was  
15 to ultimately bring that back in-house, and the two-month  
16 extension, we anticipated that that would be--result in a  
17 lower amount of cost over the timeframe.

18           Senator McCaskill. In fact, on March 6, 2010, in an e-  
19 mail to you, Mr. Klumb stated, "The cost is very high." He  
20 had not been in government very long at that point.

21           "At this point, I would recommend"--I am quoting now,  
22 directly--"At this point, I would recommend that the  
23 contract not be extended, and that we rely on the experience  
24 and expertise of GSA professionals. Please advise."

25           And on March 7th, you responded, "The work they've done

1 equates to approximately \$125 an hour, which is low,  
2 considering we have the owner of the company putting in a  
3 lot of time." I believe her hourly rate was \$270 an hour;  
4 is that not correct, Ms. Ruwwe?

5 Ms. Ruwwe. It was 270 or 250.

6 Senator McCaskill. I believe it is 270, if you check.

7 Ms. Ruwwe. Okay.

8 Senator McCaskill. "The new contract will be month-to-  
9 month, and should cost less unless we run into some  
10 unknowns."

11 On March 8th, the GSA contracting official sent the  
12 very next day--and I am not aware there was any more give-  
13 and-take between the two of you on that in terms of e-mails.  
14 On March 8th, the GSA contract officials sent the contract  
15 extension to Jane Mobley for signature. Ms. Mobley promptly  
16 forwarded the extension document to a JMA colleague and  
17 urged her to hurry to get the contract signed.

18 Now, this is the important part of the e-mail. At the  
19 time, Jason Klumb was serving in his JAG duties in the  
20 military and was in Korea; is that correct, Ms. Ruwwe?

21 Ms. Ruwwe. Yes.

22 Senator McCaskill. So, Ms. Mobley forwarded the  
23 extension document to a JMA colleague and urged her to hurry  
24 up and get the contract signed saying, "Please get Jenny and  
25 execute ASAP before it's wake-up time in Korea."

1 Does that concern you?

2 Ms. Ruwwe. That is the first I have heard of such an  
3 e-mail like that.

4 Senator McCaskill. And how would she know that there  
5 was an issue of Jason Klumb being in Korea? How would she  
6 have been aware of that?

7 Ms. Ruwwe. I do not know.

8 Senator McCaskill. Did you tell her that Jason Klumb  
9 had concerns about the extension of this contract?

10 Ms. Ruwwe. I do not know. I do not recall.

11 Senator McCaskill. Is there anyone else that knew that  
12 Jason Klumb was serving in Korea at the time and had  
13 indicated by e-mail in a 12-hour time differential that he  
14 had concerns about extending the contract?

15 Ms. Ruwwe. Not that I am aware of. I do not know.

16 Senator McCaskill. So, we would need to ask Ms. Mobley  
17 where she got the information about, let us hurry up and get  
18 this done before they wake up in Korea?

19 Ms. Ruwwe. Yes.

20 Senator McCaskill. Senator Portman.

21 Senator Portman. Thank you, Madam Chair.

22 I would like to go back to, again, this notion that  
23 rules and guidance matter, and particularly with this agency  
24 being a contracting leader.

25 When I look at your testimony, Mr. Miller, and then I

1 look at the responses to the Chairman's questions as to  
2 whether anything was done inappropriately, there seems to be  
3 a disconnect. And I go back to the issues that you raise in  
4 your testimony, Mr. Miller, as the IG, and I just want to be  
5 sure that I understand them.

6 One was that you believe the sole source contract was  
7 not appropriate because there was not adequate  
8 justification.

9 Mr. Miller. Correct.

10 Senator Portman. Second, the scope of work was not  
11 adequately defined or priced. We talked about that.

12 Third, that the initial task order did not have  
13 specific deliverables. I think you said in your oral  
14 presentation that there were not measurable objectives.

15 And then, you had concerns about the extension not  
16 being justified.

17 Going back to the scope of work for a second, does the  
18 fact that, as we have learned today, the Statement of Work  
19 was written by the contractor concern you, also, or was that  
20 not--is that not something that concerns you because this  
21 was noted earlier by the Administrator that is not atypical?

22 Mr. Miller. It does concern us very much, Senator.

23 It creates a situation in which there are no controls  
24 and it is not an arms' length arrangement with the  
25 contractor. It allows the contractor essentially to say

1 what the contractor wants to do and to essentially to name  
2 the contractor's own price.

3 And the real problem was that GSA did not know what it  
4 wanted and what it needed.

5 Ms. Johnson. Senator, allow me--I want to be sure that  
6 I heard you correctly.

7 I did not intend, if it was heard, that it is a common  
8 or typical practice for a contractor to write the Statement  
9 of Work. That was--

10 Senator McCaskill. I think that is what you said. It  
11 may not have been what you meant.

12 Ms. Johnson. It is certainly not what I meant.

13 Senator Portman. I think it might be helpful--you used  
14 the word "recipient," I think, and that is how I wrote it  
15 down. It might be helpful to look at the transcript and I  
16 do not know, Madam Chair, that might be too time-consuming  
17 to go back now, but you might want to correct your  
18 statement.

19 Ms. Johnson. Let me just say it explicitly, the  
20 recipient being the government people receiving the benefits  
21 of the contract, the services of the contract, that would be  
22 the recipient, not the contractor.

23 Senator Portman. Okay. That is--

24 Ms. Johnson. So, the recipient should--it is the  
25 person--the manager who needs the services to--writing the

1 Statement of Work would be the normal course of events.

2 Senator Portman. I am glad you had a chance to correct  
3 that--

4 Ms. Johnson. I am sorry.

5 Senator Portman. --or at least correct my  
6 misunderstanding of what you said.

7 Ms. Johnson. My misspeaking, perhaps.

8 Senator Portman. But we will look back at the  
9 transcript of that and be sure that is clarified.

10 So, both of you had concerns about that, and yet you  
11 responded to the Chairman's question earlier that you did  
12 not think anything was wrong in the way this was handled,  
13 and we have now been able to identify, I think, four--the  
14 contract extension I will leave out, because I am not sure  
15 we agree with that and--and for that matter, I guess, the  
16 justification for sole source, you might not agree with the  
17 IG on that, but do you agree that the Statement of Work  
18 should not have been written by the contractor? And again,  
19 this is not about this particular contract, this is about  
20 what are the rules and guidance going forward. You do agree  
21 with that?

22 Ms. Johnson. I agree that it should not be written by  
23 the contractor, and we did not believe that was the case in  
24 this situation. We would not have acted in the way we had,  
25 I submit, if we had known that it had been written by the

1 contractor.

2 Senator Portman. On the scope of work not being  
3 adequately defined or priced, I assume that you would agree  
4 with that in the sense that you all did not establish a  
5 scope of work at all; right?

6 Ms. Johnson. Well, the prices--let me address the  
7 price piece. Because it was--because JMA is on the multiple  
8 award schedules, the prices are--

9 Senator Portman. Excuse me for a second. What did you  
10 mean by "price." Did you mean the multiple awards schedule  
11 or did you mean the overall price of the contract? I assume  
12 that you meant--

13 Mr. Miller. Well, both, Senator. The problem is, if  
14 you do not know what you want, it is hard to get the right  
15 price.

16 If you are buying a vehicle, for example, and you do  
17 not know if you want a Volkswagen or a truck or a bus, it is  
18 hard to evaluate the prices.

19 GSA did not know what it wanted from this contract. It  
20 was clear from the e-mail that Senator McCaskill read  
21 earlier. They were willing to settle for boilerplate.

22 GSA needed to think through what it really wanted from  
23 this contract, and then it can assess price.

24 Senator Portman. So, this is, again, a general rule of  
25 contracting, is to be sure that you think through what it is

1 you are asking for, to be sure that the government and the  
2 taxpayers are getting the best, most efficient and effective  
3 outside work done to the extent outside work is appropriate.  
4 We have talked about that already whether it was appropriate  
5 or not.

6 And then, the other one is that the task order had no  
7 specific deliverables; that is in your testimony. Again,  
8 you talked about measurable objectives, I think, in your  
9 testimony.

10 I would guess I would again throw that out to the  
11 Administrator and to the Commissioner. Do you think that  
12 there were adequate, measureable objectives or, as the IG  
13 has said, specific deliverables in this request for an  
14 outside contractor?

15 Mr. Peck. You know, I would prefer--I would always  
16 prefer that there be very specific deliverables in a  
17 contract, as specific as we can make them.

18 Without getting in the weeds, can I make a distinction?  
19 When we write a contract to a contractor to build a  
20 building, we know pretty much down to the last electrical  
21 outlet what we are asking them to deliver. We have a  
22 schedule and we have a budget. It is the case that when you  
23 hire consulting services of all kinds, you cannot get to  
24 that level of specificity because, in some cases, you are  
25 saying, I do not have this expertise. I may not know enough

1 to write a deliverable down to the last jot.

2 On the other hand, we certainly want something where,  
3 at the end of the day, we can say, did we get our value for  
4 the price? So, there is a little bit of a judgment call on  
5 how specific the deliverables should be.

6 I think in the--

7 Senator Portman. I appreciate that, Commissioner, and  
8 I think there is a spectrum, here.

9 One end of the spectrum would be not having any  
10 measurable objectives at all, and that appears to be where  
11 we are here.

12 Mr. Peck. Correct. I do not think we had no  
13 deliverables. In hindsight, I wish that deliverables  
14 probably could have been more specific.

15 Senator Portman. Mr. Miller, I am going to give you a  
16 chance to talk about the contract extension, because there  
17 may be a difference of opinion there, but what is your  
18 specific concern on the contract extension?

19 Mr. Miller. Again, Senator, GSA did not clearly know  
20 what it wanted in the first place. It was not sure that  
21 what it was getting was what was needed; it had EPA look at  
22 that.

23 And the problem of extending the contract was, why  
24 extend it? The work seemed to be developed by the  
25 contractor and there was no need to extend this current

1 situation.

2           Going back to why GSA mentioned that it needed the  
3 contractor, it mentioned technical expertise. When we  
4 looked at the product of JMA Associates, it looked as if--  
5 that EPA translated the technical data and JMA compiled.  
6 JMA also compiled information that is readily available on  
7 the Internet, and it also put out some inaccurate  
8 information in terms of work product. But as far as  
9 scientific and technical information goes, my office just  
10 did not see that JMA was adding value in translating  
11 technical and scientific information.

12           So, if you have that situation, why extend the  
13 contract? You still do not know why you have them and what  
14 you need them for. So, why extend it?

15           Senator Portman. Okay. I need to end my question  
16 because my time has come to the end.

17           But again, I think we have learned some things here  
18 that hopefully can be helpful going forward. I do not think  
19 this, again, is about this specific contractor who, after  
20 all, was sought after by GSA on a sole source basis, but it  
21 is about how GSA, as a major contractor and as a federal  
22 agency that has a key role in helping other federal agencies  
23 to contract conducts itself.

24           So, I think that after this hearing I would hope that  
25 the answer to the Chairman's question would be, yes, we made

1 some errors and we can do better, and we will be sure that  
2 what we learned from this situation is reflected in future  
3 guidance.

4 Thank you, Madam Chair.

5 Senator McCaskill. Thank you, Senator Portman.

6 Mr. Miller, in the original IG report you did--and I  
7 want to say that--I do want to underline what Ms. Ruwwe was  
8 so intent upon saying, because I think it is important to  
9 the people that work at Bannister, that there now have been  
10 dozens and dozens and dozens of tests that have been  
11 performed, none of which have indicated a health hazard to  
12 the employees of families that work at Bannister and their  
13 children cared for at Bannister.

14 But the issue here is not whether or not it is safe  
15 today, but how GSA handled the challenges of dealing with  
16 the questions about the safety at Bannister, and whether or  
17 not they were timely and aggressive in terms of some of the  
18 testing that was performed, and most importantly, whether  
19 they looked within government for resources to communicate  
20 to the public instead of what appears to be in almost a  
21 knee-jerk fashion to citing it is time to get a big PR firm--  
22 -well, a PR firm, they were not a big firm--but an  
23 expensive--I mean, for three months' work, they made double  
24 the salary of any public relations person at GSA, for three  
25 months' work.

1           In fact, originally, Mobley said, let us do a 5-year  
2 ceiling with \$5 million. As it turns out, this contract for  
3 three months, if you extrapolated out over the life of a  
4 year would have been a million-dollar contract.

5           This is the exactly the kind of thing that allows the  
6 public to get deep-rooted cynicism about the way we spend  
7 money. This is exactly it, that we must have--this must be  
8 Monopoly money, if we are paying someone for three months'  
9 work, double the salary of anyone that works in public  
10 affairs within GSA. That is an extraordinary amount of  
11 money to pay someone for three months' work.

12           And I know they say 1,800 hours. Mr. Miller, could you  
13 comment about the work product--I mean, 1,800 hours in 3  
14 months and this is the deliverables. This is a quarter of a  
15 million dollars, approximately, a little less.

16           And a lot of the things they did, when I looked at the  
17 list--which, by the way, they prepared. Mobley prepared the  
18 list of deliverables that we have been referring to in terms  
19 of this investigation, and most of them were meetings with  
20 government officials, internal meetings. And now, I know  
21 they prepared some materials that were given to the public  
22 and some written materials.

23           Let me back up about your audit that said--I mean, your  
24 investigation, Mr. Williams--Mr. Miller, that said that the  
25 GSA officials provided incorrect and misleading information.

1 Would you specifically and briefly say what it was that you  
2 thought was incorrect that they provided you in the  
3 Inspector General investigation that was done concerning the  
4 testing and the environmental testing that was done at  
5 Bannister, and what was the misleading information?

6 Mr. Miller. Yes, Senator.

7 The most notable misleading and inaccurate information  
8 was about documents being produced. There was a 2005 letter  
9 from the Missouri Department of Natural Resources from  
10 January 2005 that raised concerns about the conditions at  
11 Bannister.

12 There was a June e-mail following up on that, it was  
13 not responded to by GSA.

14 There was a June e-mail by MDNR following up on that.

15 And there were letters in October of 2005. When we  
16 went to GSA initially, these were not produced. They were  
17 also not produced under the FOIA request. So, that  
18 information was not produced. We went back after obtaining  
19 that information from the MDNR--we went back and asked GSA.  
20 And--

21 Senator McCaskill. So, your source for the document  
22 that you found was in fact the Missouri Department of  
23 Natural Resources as opposed to GSA.

24 Mr. Miller. Yes.

25 Senator McCaskill. And then, you went back and said,

1 why did you not give us this information.

2 Mr. Miller. Yes.

3 Senator McCaskill. And you were told?

4 Mr. Miller. I was told that they did not have that  
5 information, that they were not aware of it.

6 We talked to the individuals involved in the  
7 correspondences, the environmental hygienists, and we asked  
8 if they drafted it--if they saw it and if they drafted a  
9 response or an e-mail responding, and they could not  
10 remember.

11 Senator McCaskill. Mr. Peck, would you like to--I know  
12 you have a difference of opinion about the way the Inspector  
13 General characterized "misleading and incorrect," and would  
14 you--I want to give you an opportunity, in fairness--

15 Mr. Peck. Yes.

16 Senator McCaskill. --to respond for the record your  
17 characterization of the fact that an important source  
18 document for an investigation like this they had to receive  
19 from a secondary source as opposed to the agency that they  
20 had the responsibility to provide watchdog services.

21 Mr. Peck. Well, thank you for the opportunity.

22 First of all, needless to say, when we get a Freedom of  
23 Information Act request, I mean, our obligation is to  
24 produce everything that we can. I think in this case, we  
25 produced some 30 volumes of documents, including, I think--I

1 do not know if the Inspector General would agree--including  
2 documents that if you were looking to make--if you were out  
3 to make yourself look good, you probably would not produce  
4 if you were trying to hide things.

5         And so, I guess my concern--and I do not think it is a  
6 quibble, because we are talking about the integrity of  
7 federal employees--is that I believe, as near as I can tell,  
8 that the failure to produce that letter was not deliberate,  
9 that nobody was trying to hide the fact that MDNR had  
10 written a letter. And that is my concern because, as we  
11 said, we have been--as near as I can tell, in the times I  
12 was not at GSA and in the times that I have been, we have  
13 tried to be as open and forthright as what is going on at  
14 the Bannister Complex as we can, and to respond to requests.

15         Senator McCaskill. I would assume, though, that you  
16 would acknowledge that a letter from the Missouri Department  
17 of Natural Resources criticizing the agency's limited  
18 investigation of TCE contamination would have been a serious  
19 issue, and that document should have been placed in a place--  
20 -I would assume that you would have a filing system that  
21 would certainly prioritize another--this would be similar to  
22 the EPA coming to Bannister and saying, we do not think you  
23 have done enough on TCE site contamination.

24         I am just curious, it is either--if it is inadvertent,  
25 it is incompetence; if it is not inadvertent, it is even

1 more troubling.

2           Would you acknowledge that this is a huge problem?

3           Mr. Peck. It certainly is a problem. It is in the  
4 context of 40,000 documents that were--something like that--  
5 that were produced.

6           I do not to this day why it was not--what happened to  
7 it and why it was not responded to at the time. But again,  
8 my concern, because we are talking about the confidence of  
9 the public in what we do, is that we can sure make mistakes,  
10 but we are not covering up and we are not intending to  
11 mislead people.

12           Ms. Ruwwe. And may I expand on that.

13           Senator McCaskill. You need to turn your microphone  
14 on, Ms. Ruwwe.

15           Ms. Ruwwe. Sorry.

16           If I can expand on that, that has been one of our  
17 lessons learned, and one of the IG's recommendations, that  
18 we actually have a robust documentation filing system. And  
19 so, now, it is all electronic, it is easily accessible, and  
20 so, that mistake will not occur again.

21           Mr. Miller. Senator, if I could simply add quickly  
22 that we found it in the GSA database, after we were told it  
23 did not exist in the database. We used simple search terms,  
24 and our auditors put the search terms in the database and  
25 found it when the GSA officials could not.

1           Senator McCaskill. That is hard to--they find it by  
2 going in your database with simple search terms, but you all  
3 are still maintaining you could not find it.

4           Do you agree that is troubling?

5           Mr. Peck. I would like to know what--who used what  
6 search terms to find it and how we did a search that did not  
7 find it. I would certainly want to know that.

8           Senator McCaskill. Well, I think that that would be  
9 something that I am sure that Mr. Miller would be glad to  
10 follow up with you about the technical nature of their  
11 database search within your database to find the document.

12           And it would be interesting to see what kind of search  
13 was done by GSA to find the document after it was brought to  
14 your attention that it had not been produced.

15           Ms. Ruwwe. And if I can expand on that, as well, in  
16 developing our electronic documentation system, we have  
17 found more documents and we have provided that, I believe,  
18 to the IG afterwards.

19           We acknowledge that we had a poor documentation system.  
20 Our staff of people--

21           Senator McCaskill. But they found it in your  
22 documentation system. They found it by a simple database  
23 search. Why could you not have found it by a simple  
24 database search?

25           Ms. Ruwwe. I cannot answer that question directly, but

1 I can say that, if you have a document and you have it in  
2 your hand, it is probably easier to research than just doing  
3 a blanket search.

4 Senator McCaskill. But they asked you about the  
5 presence of the letter and you said you still did not have  
6 it.

7 Correct me if I am wrong, Mr. Miller: They get a  
8 letter from DNR they had not gotten from you about TCE  
9 testing. They say to you, why did you not produce this  
10 letter. You say, we do not have it. Then, and it is--we do  
11 not know what you are talking about. We do not have that  
12 letter. They then go in your database, okay, and with  
13 simple search terms, find the letter.

14 Now, you understand that this is problematic.

15 Ms. Ruwwe. That is the case and that is what happened.

16 The staff, when asked, why did you not have that  
17 letter, they simply did not recall. The letter--

18 Senator McCaskill. Did they do a database search for  
19 the letter when they were asked by the Inspector General for  
20 the letter?

21 Ms. Ruwwe. I am not sure what kind of a search that  
22 they did to find that letter. They did--

23 Senator McCaskill. I would think that would be  
24 something you would want to know.

25 Ms. Ruwwe. They did find--

1           Senator McCaskill.   Because are these people not  
2 working for you?

3           Ms. Ruwwe.   Yes, they did--

4           Senator McCaskill.   And you are telling me that you are  
5 in the middle of an Inspector General investigation and a  
6 letter turns up that you have not presented to the Inspector  
7 General, they find this letter, they come to you and say,  
8 why is this letter not--and the other e-mails--part of what  
9 you produced?   And you go to your people and say, why did we  
10 not produce this letter, and they say, we do not have it, we  
11 cannot find it.   You then find out they find it using your  
12 database and simple search terms.

13           Did you go back to the personal accountable for this  
14 and did you ask them why you could not find this?   Did you  
15 do a database search?   Who is the person that is  
16 responsible, Ms. Ruwwe?

17           Ms. Ruwwe.   I have had personal dialogue with our  
18 safety and environmental program team, and in that dialogue,  
19 I wanted to find out the details of the letter which I have  
20 seen, and in the details of the letter--and actually, I have  
21 talked with the Missouri Department of Natural Resources  
22 about it, too, and the circumstances around that.

23           That letter was written from one technician, from the  
24 Missouri Department of Natural Resources--

25           Senator McCaskill.   No, no, no.   You are not--I

1 understand you did not find the letter initially.

2 This is my question--this comes to accountability.

3 This comes to federal employees that have responsibilities  
4 and expertise, and they are paid accordingly; okay?

5 Now, you now know there is a letter that you did not  
6 produce. This makes you look bad; right? So, you want to  
7 find out where this letter was and why you did not produce  
8 it.

9 So, you go to the people that work for you and you say  
10 to them, why did we not produce the letter; correct?

11 Ms. Ruwwe. Yes.

12 Senator McCaskill. And they said to you, we do not  
13 have the letter; correct?

14 Ms. Ruwwe. They could not find it immediately. They  
15 ultimately did.

16 Senator McCaskill. Wait. Did they say you do not have  
17 it or they could not find it.

18 Ms. Ruwwe. They could not find it immediately. They  
19 ultimately did.

20 Senator McCaskill. Okay. So, now, what we know is  
21 that the Inspector General, once you told them they could  
22 not find it, the Inspector General does not go to MDNR, he  
23 goes in your database and does a simple search and finds the  
24 letter.

25 Now, at this point in time, did you take disciplinary

1 action against the people responsible for finding the letter  
2 in your agency which made you now--not only did you not give  
3 them the letter, you have now said you cannot find it and  
4 they find it with a simple data search.

5 Ms. Ruwwe. What we have done is improved our  
6 documentation and filing system, and so, that will not  
7 happen again.

8 Senator McCaskill. Do you need the Inspector General  
9 to train your people on how to do a database search in your  
10 database? That is what it sounds like.

11 Mr. Miller. Senator, if I could add, we used the same  
12 search terms that the GSA person told us they used and could  
13 not find the document.

14 Ms. Ruwwe. Our legal staff--once provided the  
15 documentation, our legal staff went through that  
16 documentation and conducted the redaction process. And so,  
17 our people--there was nothing to hide, and as Commission  
18 Peck said, there were a lot of documents in there that, if  
19 we--if we wanted to, we could have taken out.

20 Senator McCaskill. No, I understand. I am more going  
21 to incompetence and accountability here, that clearly  
22 mistakes were made and clearly it does not appear to me that  
23 people who have made the mistakes are responsible for the  
24 mistakes, that there was any accountability.

25 This is obviously embarrassing that you cannot find a

1 letter and then, using the same search terms that you  
2 supposedly used, they find it immediately, and it is a  
3 pretty important letter.

4 So, I guess that is the point I am trying to make, Ms.  
5 Ruwwe. I mean, I am not going to sit here--believe me, I  
6 know there are thousands and thousands of federal employees  
7 that have incredible integrity and I am not here casting  
8 aspersions on your integrity. What I am saying is this was  
9 ugly. It was sloppy, ugly, messy, and bad.

10 And the most frustrating thing about this hearing is  
11 that I have not heard enough acknowledgement from anybody  
12 from GSA that mistakes were made and that it should not have  
13 been done this way.

14 Let me just go through the facts which I think will  
15 highlight another point, and then I will turn it back over  
16 to Senator Portman.

17 The letter itself, despite the issue in the letter that  
18 was raised in TCE, the Public Building Services took no  
19 substantive investigation action for 18 months concerning  
20 that letter. When it finally initiated a site inspection  
21 after 18 months, that site inspection was not completed  
22 until three-and-a-half years after the Missouri Department  
23 of Natural Resources letter was sent about TCE  
24 contamination.

25 The Public Building Services did not respond to

1 Missouri Department of Natural Resources regarding its  
2 concerns and terminated their environmental oversight in  
3 October 24, 2005.

4 One of Department of Natural Resources concerns related  
5 to the childcare facility was not addressed until a vapor  
6 intrusion system was installed five years after the Missouri  
7 Department of Natural Resources letter.

8 But yet, when a Senator calls for an Inspector General  
9 investigation, we are able to get a PR contract in 24 hours.

10 Ms. Ruwwe. Can I respond to that?

11 Senator McCaskill. Yes, you may.

12 Ms. Ruwwe. Okay. From what I believe--and I want to  
13 consult with my--one of my project managers back behind me--  
14 from what I believe, the testing that we were doing in the  
15 childcare center and other parts of the complex was air  
16 sampling testing. And the testing that the Missouri  
17 Department of Natural Resources and the Environmental  
18 Protection Agency were recommending, it was somewhat--it was  
19 newer--a newer form of testing, and it was sub-slab testing.

20 So, they were testing vapor intrusion from below the  
21 slab, and that was something that we had not conducted in  
22 the past. But we did do our due diligence, in our  
23 perception and our understanding, with the air sampling, and  
24 but it was further recommended by the Missouri Department of  
25 Natural Resources to conduct this sub-slab testing.

1           Senator McCaskill. I guess the point I am making is  
2 this is a letter you could not find and it recommended an  
3 action on a certain form of contamination and it took years  
4 to follow up on that letter, but the PR contract went  
5 quickly, and I think that is the point we are trying to  
6 make. Maybe if there had been better work done along the  
7 way maybe we would not have been to the point that you all  
8 considered bad press, a crisis.

9           Ms. Ruwwe. And can I respond to that?

10          Senator McCaskill. Yes.

11          Ms. Ruwwe. We acknowledge--and I want you to hear loud  
12 and clear--we acknowledge that there is a lot of room for  
13 improvement.

14          We value and have a very good working relationship with  
15 the Inspector General, and we value their feedback and  
16 recommendations. We have taken this as an opportunity to do  
17 a lot of improvement and thoroughly believe in continuous  
18 improvement and we are taking those lessons learned and we  
19 know we can do better, and we have already done a multitude  
20 of things that have been somewhat discussed here today, but  
21 from the additional testing, we value the recommendations of  
22 the Environmental Protection Agency. We are doing our due  
23 diligence in following up in those other areas that they  
24 would recommend that we follow up in.

25          We have done the fix on our electronic filing system;

1 we do not want that mistake to happen again. We want open,  
2 honest transparency in our communications, and they number  
3 one priority is the health and safety of our tenants and our  
4 associates, the parents dropping their kids off at the  
5 childcare center. We want them to feel safe, an assurance  
6 to have that.

7 And so, throughout this process, over the last year,  
8 2010 has been--it has been a rough year, and the biggest  
9 challenge has been in the communications piece and earning  
10 the trust back of the public.

11 Senator McCaskill. And the press continues.

12 Ms. Ruwwe. Yes.

13 Senator McCaskill. Correct?

14 Ms. Ruwwe. Mm-hmm.

15 Senator McCaskill. There have been major stories that  
16 have been negative about the complex long after Jane Mobley  
17 got her last dollar; correct?

18 Ms. Ruwwe. Yes.

19 Senator McCaskill. Okay.

20 Senator Portman.

21 Senator Portman. Thank you, Madam Chair.

22 And just to review where we are, I hope, it sounds like  
23 we have got sort of a different response from the panel, and  
24 specifically from the GSA members of the panel on what went  
25 wrong in this process. And again, I hope we can learn from

1 it. I think with \$530 billion a year--more this year; that  
2 was last year's number--going out in contracts, this is an  
3 area where GSA should take a leadership role.

4 I think this notion of in-house expertise is something  
5 Commissioner Peck and Ms. Johnson will take a look at,  
6 including, by the way, not just regional expertise but  
7 Washington expertise--in this case, public affairs  
8 expertise--the use of other Federal Government expertise  
9 being something that I think is appropriate, and I know that  
10 is an issue where they may be some difference of opinion,  
11 but in this case the expertise at EPA to deal with some of  
12 the technical and more complex issues that were raised would  
13 be appropriate before going outside, perhaps, to a firm that  
14 does not have that expertise.

15 The issue of sole source contracting, which is always  
16 an issue and justifications for it is something where you  
17 all ought to, again, not just have clear rules internally  
18 but be able to provide that guidance for other agencies and  
19 departments.

20 And scope of work, I think Mr. Miller stated it pretty  
21 well earlier: You do not know what you are going to get if  
22 you do not take the time and sometimes, as Mr. Peck says, it  
23 is difficult with technical information to know what you  
24 want. Well, then, again, going to the expertise either in-  
25 house or in another governmental agency, there was a

1 Statement of Work being written by government rather than  
2 written by the contractor, him or herself, a notion of  
3 measurable objectives. I mean, this is something that  
4 government struggles with and does not do well enough, and  
5 without the private sector incentives and motivations,  
6 sometimes it is hard, but you therefore have to redouble  
7 your efforts to have measurable objectives in specific  
8 deliverables, and then, of course, when it is appropriate to  
9 extend a contract or not, and I think in this case, for all  
10 the reasons that we have stated earlier, an extension should  
11 be dealt with like an initiation of a contract.

12 So, I do not have any other questions, Madam Chair,  
13 except to say that this has been, I hope, an illuminating  
14 hearing to raise some of these issues and to help ensure  
15 that GSA is the leader in the contracting community learns  
16 from this experience, as well.

17 Thank you, Madam Chair.

18 Senator McCaskill. Thank you, Senator Portman.

19 I would ask, if any of you have anything you would like  
20 to record, the record will remain open.

21 If you want to add anything--if you want to say  
22 anything else right now, you are certainly welcome to.

23 Mr. Peck. We do, at least I do.

24 Madam Chair, Senator, I appreciate all your comments.

25 I appreciate also your concern. We do believe--and I am

1 going to--the Administrator is in charge of--has a passion  
2 about making GSA a model for contracting and for the way the  
3 government can behave in a businesslike manner, and I am  
4 going to allow her to talk about that.

5 I want to say on behalf of the Public Building Service,  
6 I want to be very clear about my answer to your first  
7 question, did we do anything wrong? In a sense of legal  
8 culpability, no. Did we make mistakes? Certainly, in  
9 hindsight, we made mistakes, and I want to assure you of a  
10 couple of things.

11 One is that we are very aggressive. We run a lot of  
12 projects every year on behalf of the American people, most  
13 of them, the vast majority of them, come out great, but as I  
14 have seen in the private sector as well as the public  
15 sector, you learn something that you say, boy, I am not  
16 going to do that again, I learned a lesson. We are very  
17 aggressive in learning our lessons. We are very aggressive  
18 in training out contracting officers about issues like sole  
19 source, and we work hard to make sure that we abide by the  
20 government's rules.

21 There is an irony, as you well know that, if you are in  
22 the private sector working with the government, sometimes  
23 you say, well, there is a surfeit of rules that make it  
24 difficult for the government to work efficiently. So, we  
25 work very hard to make sure we obey all the rules and that

1 we can get the people's business done efficiently and  
2 productively. And I can assure you that this is an episode  
3 from which we have learned a couple of lessons, and I think  
4 you have noted them.

5 We understand that we need in-house expertise of a  
6 certain type in buildings that have environmental issues,  
7 and it has to do both with being able to understand the  
8 issues, explain them to people, and make sure that people  
9 are confident in what we are doing.

10 So, I do not want you to believe that we just walk away  
11 saying, well, that was just a one-off. We do not want to  
12 have the issue that we have with public confidence in a  
13 place like the Bannister Complex. We want to be able to  
14 keep it safe and convince people that it is, in fact, safe  
15 for them to work in.

16 Ms. Johnson. Allow me just to say a few things.

17 First of all, I appreciate this hearing because, as you  
18 say, contracting is not necessarily sexy to the American  
19 public, but it is critical and important, and we are one of  
20 the biggest agents in the government for that expertise and  
21 to help the rest of the government function with great  
22 stewardship towards the taxpayer dollar.

23 I want to also commend you for raising the issue of  
24 services contracts. I think that is an arena where I would  
25 like to continue to work very closely with our customer

1 agencies and with you to be sure that we are supporting the  
2 government well.

3 Services contracts are growing because of the last  
4 decade of outsourcing, and it is an important arena and a  
5 huge one.

6 I also completely agree with the notion that we need to  
7 be more sophisticated about how to communicate technical  
8 information. In a 24/7 news cycle, there is a lot of  
9 information that is going out, but it is one that needs to  
10 be understood and clearly taught. So, we have, I think, a  
11 challenge, as does the private sector on that.

12 I am delighted to be at GSA. I think we have a lot of  
13 potential for fixing some of these problems. I also commend  
14 to you the issue of contractors and their training and their  
15 support. It is a profession within the government that  
16 deserves our resourcing and our--

17 Mr. Peck. You mean contracting officers.

18 Ms. Johnson. Contracting officers. What did I say?  
19 Contracting officers, I think they need our support and they  
20 need our investment, and that is the vehicle by which we can  
21 then stand tall that our contracting is done with integrity  
22 and with the--safeguarding the American taxpayer dollar.

23 Thank you.

24 Senator McCaskill. This Committee has spent a lot of  
25 time on contracting--on CORs, contracting officer

1 representatives, and this was another weird thing about this  
2 contract, was that the contracting representative was  
3 somebody at the EPA as opposed to somebody at GSA for the  
4 first month of the contract, and then, I think you guys  
5 figured out that that was not the right way to do it, and  
6 you changed it.

7 I know, Mr. Miller, you continue to audit, and we will  
8 look forward to your work. And I try to every hearing we  
9 have send support and acknowledgement and respect for the  
10 work that the Inspector General community does. It is not  
11 easy. I do not care what they say, they are not glad to see  
12 you.

13 And the bottom line here is we had a one-day, non-  
14 competitive, sole-sourced contract, with the work written by  
15 the contract, with misinformation that was surrounding the  
16 contract, the assumption that EPA was writing the Statement  
17 of Work, the assumption that EPA had done business with this  
18 firm before.

19 And then, it was renewed, even though the regional  
20 administrator had said, I think it is too expensive. It was  
21 rushed through anyway, the extension. That is a subject for  
22 another day, what has happened to the role of the regional  
23 administrator within GSA; clearly, it has been changed, and  
24 I think it was changed when nobody was watching. And I am  
25 not saying that it should not be changed, but the question

1 is, if the regional administrators are not going to have any  
2 power, why do we have them? I am not sure that we need to  
3 have them if they are--clearly, his saying that he did not  
4 want to do the contract did not slow you down. You knew  
5 that you had authority over him; he did not have authority  
6 over you.

7 And I understand that maybe there is a management  
8 reason to make that change, and I am open to hearing about  
9 it, but I do not think the members of the Senate understand  
10 what happened and when it happened, because it was clearly  
11 changed in the interim time when George Bush left office and  
12 the time that you, Ms. Johnson, took office, there was  
13 effort made in GSA to change what had been traditionally the  
14 role, and that is a subject for another day and does not  
15 impact what we are dealing with today.

16 And finally, I would just say, accountability. If we  
17 now acknowledge at the end of the hearing that mistakes were  
18 made, then I have yet to see where anyone was held  
19 accountable for those mistakes. I know Ms. Ruwwe received a  
20 bonus last year, in one of the toughest economic years our  
21 country has ever seen.

22 And I am not saying it was all her fault, the mistakes  
23 that were made, but it is interesting to me that I am not  
24 aware of anyone who suffered any kind of accountability  
25 because of the mistakes that were made surrounding this

1 contract, and that is troubling to me. I do not think that  
2 would happen in the private sector, and I think it is  
3 important that we demonstrate to the public that when  
4 mistakes are made that someone is held accountable and I am  
5 not convinced that that is the case in this particular  
6 contract.

7       We will keep the record open for seven days. If there  
8 is anything you want to add based on any comments that have  
9 been made today, as you look at the record, if there is  
10 anything you want to correct. Certainly, we do not want the  
11 record to stand that we heard you say something different  
12 than what you meant, so feel free, and we will continue to  
13 monitor--especially sole source service contracts in the  
14 Federal Government. As the old saying goes, there is money  
15 to be saved there, and serious money to be saved there,  
16 hundreds and hundreds of millions of dollars. I would  
17 never--I never want a PR contract issued the way this one  
18 was issued in the Federal Government again. We have got  
19 plenty of folks that--and the way I look at technical  
20 information, Ms. Johnson, is, first of all, I need to  
21 understand it and, once I understand it, I ought to be able  
22 to explain it. And if you have people working for you in  
23 public affairs that, once a complex subject matter is  
24 explained to them and they cannot explain it, then you need  
25 to find new people, because it is the translation of

1 complicated information into simple terms that is the  
2 essence of making sure the public understands complex  
3 subject matter. And I do not think it takes a PR firm to do  
4 that. I think it just takes somebody being able to explain  
5 it to you and then you being able to characterize that  
6 explanation in a simple and straightforward way.

7 I do not think that is the kind of technical expertise  
8 that is not found in the Federal Government. If it is not  
9 in the Federal Government, then we are in big trouble; we  
10 are in big trouble.

11 So, I appreciate you, Senator Portman, and if you do  
12 not have any other comments, we will close the hearing, and  
13 I thank you all for your attendance today.

14 Thank you.

15 [Whereupon, at 11:51 a.m., the Subcommittee was  
16 adjourned.]