

**STATEMENT OF MARY RUWWE
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U.S. GENERAL SERVICES ADMINISTRATION**

BEFORE THE

SUBCOMMITTEE ON CONTRACTING OVERSIGHT

**U.S. SENATE COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENT AFFAIRS**

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Good morning Madam Chair, Ranking Member Portman, and members of the Subcommittee. My name is Mary Ruwwe and I am the Regional Commissioner of the General Services Administration's (GSA) Public Buildings Service (PBS) in the Heartland Region. Thank you for the invitation to join you today to testify on PBS' use of public relations services with Jane Mobley Associates, Incorporated (JMA) at the Bannister Federal Complex in Kansas City, Missouri.

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

Over the years, GSA has continually monitored the Complex, conducting hundreds of environmental tests. All of these tests have indicated that the facility has been and remains a healthy environment for our employees, tenants, and the public. Until recently, GSA relied on in-house communication experts to relay information on our environmental programs, policies, and projects for the facility. In late 2009 and early 2010, however, circumstances changed drastically. Tenant and public inquiries significantly increased; the situation became more complex due to amplification of concerns by media reports, resulting in employees' heightened fears of unsafe conditions.

GSA realized we needed additional resources and technical assistance to fully understand and accurately characterize the developing situation. As a result, GSA procured communication services from JMA. With JMA's assistance, GSA acted swiftly to address employee and community concerns. As Regional Commissioner, I take all matters of employee health and workplace safety seriously and always work to ensure that appropriate action is taken to provide safe and healthy facilities.

The Bannister Federal Complex: Its History and Current Safety Status

The Bannister Federal Complex is a large Federal facility with a long history. The entire Complex consists of 5 million square feet of mixed-use space with 42 buildings on approximately 310 acres. Within the Complex, GSA controls 12 buildings, totaling 2 million square feet. From the 1940s through the mid 1970s, the ownership and control of the property was divided between GSA and the Department of Energy. During this time, the site was used for manufacturing airplane engines and non-nuclear components for nuclear weapons; it served as a Department of Defense landfill; and it housed other warehouse and office space. In those early years, chemicals used in manufacturing and solid waste disposal were not subject to today's standards for managing hazardous substances in the workplace or environment.

In the 1970s and 80s, various environmental regulations were established, and following those directions, the previous use of the site was evaluated and remediation began. Since 1989, GSA has operated a safety and environmental program that meets regulatory compliance. Based on the best available science, environmental testing to

date has indicated that no current health risk exists on the GSA-controlled portion of the Bannister Complex.

We Communicate with the Public

As ensuring the health and safety of tenants in Federal facilities is my primary responsibility, along with it comes a parallel duty to communicate with the public – honestly, promptly and effectively – whenever the public needs information about conditions that have potential health and safety aspects. Over the past decade until early 2010, there was an ebb and flow of environmental testing and occasional employee concerns at Bannister which were limited to an isolated area or issue.

With the release of certain media stories in late 2009, information requests began to increase to two or three inquiries per week. During this time, GSA's single in-house communication staff handled this communication and outreach.

Then, in late January 2010, circumstances changed radically. Over the course of seven days, multiple events pushed us beyond our in-house communication capabilities. Suddenly and unexpectedly the need for communications services increased in both quantity and quality. We experienced a significant increase in inquiries from the public, from local officials, and from the press. There were requests for additional testing. A protest was staged outside our Child Care Center Facility, featuring provocative signs and fear-inducing allegations. All of this widened and deepened the public's concerns over the safety of the Bannister Federal Complex. In addition to GSA's need to disseminate corrective information to a larger audience, we were challenged with the need to coordinate among Federal, state and local regulators on current and future oversight responsibilities.

These new events, together with a surge in media attention stoked by rumors and misconceptions, created an unpredictable and unprecedented “pressure cooker” environment that threatened our ability to maintain people's confidence in the Bannister Federal Complex as a safe place to work, to visit, and to entrust their children for the day. Such confidence is necessary for there to be productive work by thousands of Federal employees at the site. Under those specific circumstances, I believed there was an urgent need to get the facts – and the truth – out to the public. I believe GSA then had a compelling need for outside communications expertise.

The Limited-Duration Task Order Placed with JMA

In consultation with the Environmental Protection Agency, GSA decided to meet this urgent need through a limited source acquisition of a communications expert from holders of Multiple Award Schedule contracts. GSA selected JMA, a highly reputable communications firm, which specializes in crisis management and communication. JMA was a local firm, knowledgeable of crisis management, experienced at digesting, evaluating, and translating technical data, and had worked with a broad spectrum of

government agencies. Additionally, JMA had knowledge, skills and abilities appropriate to address the issues facing the Region related to the Bannister Complex.

The firestorm of events in late January and early February 2010, coupled with our limited staff's lack of crisis management expertise, compelled the agency to seek expert communication services. GSA reasonably determined that an urgent and compelling need existed and that following the usual Supply Schedule ordering procedures would have resulted in unacceptable delays in addressing these concerns and the rapidly deteriorating public and employee confidence in the Complex. Fortunately, the Federal Acquisition Regulation (FAR) anticipates such needs and provides a perfectly legal procurement provision for such compelling situations. FAR 8.405-6 permits the use of "limited source justification" as an exception to competitive procedures when justified by an urgent and compelling need. This is the critical point in our discussion of the JMA task order award, and the February 16 GSA Office of Inspector General (IG) memorandum may have created confusion regarding this issue. This memorandum and my following response both incorrectly cited or referenced FAR 6.302-2. On February 18, the IG issued an updated memorandum, correcting the citation.

In fact, FAR 8.405-6 was the basis for the contracting officer preparing a limited source justification. This action was entirely appropriate and in accordance with applicable regulation. GSA prepared an "urgent and compelling" justification, which was signed by the contracting officer on February 4, 2010. Known as a "Limited Source Justification and Approval," GSA believed it was necessary to bring JMA on board immediately, because the concerns of employees and tenants were severe enough to impair their ability to work as usual. Additionally, GSA needed to communicate quickly to prevent irreparable damage to the viability of the Bannister Federal Complex and to counter misperceptions of unsafe working conditions in the offices and the Child Care Center. Therefore, a task order was issued and JMA began their work.

As I mentioned, JMA, a local small business, holds a Federal Supply Schedule contract, specifically, a contract under the Advertising and Integrated Marketing Solutions Schedule.¹ Before a vendor can be awarded a Schedule contract, its offered prices must be determined to be fair and reasonable, after GSA reviews the prices it charges similarly-situated commercial customers. In this instance, although not required to do so, GSA conducted a comparison of the prices from three vendors including JMA. Based on this price comparison, JMA had the lowest cumulative rates for the project, and the required labor mix to accomplish the work successfully. The prices were fair and reasonable. Based on this information, GSA determined JMA was the best vendor to meet our needs, and we opted to use a firm-fixed-price contract to accomplish the needed tasks.

In the memorandum dated February 18, the IG suggested that a modification to the task order (which extended its one month duration by two additional months) changed the

¹ JMA holds a contract under the Advertising and Integrated Marketing Solutions Schedule 541, SIN 541-2: Public Relations Services

contract type from firm-fixed-price to a "time and material type" contract because we requested an hourly breakdown.

It is GSA's opinion that the contracting officer did not convert the firm-fixed-price order to a time and materials order, and this is confirmed by the order itself. If the contracting officer had intended to convert this into a time and materials order, she would not have requested a lump sum price from JMA, as she did. She would have included the applicable time and material clauses and prepared a determination and findings document. Specifically, both the original contract and the modification demonstrate that this was a firm-fixed-price order. The hourly rate, which is a source of the IG's misunderstanding, was requested by the contracting officer for informational purposes in case the agency decided to terminate the order before the two-month modification period expired, as is allowed by the modification. Additionally, in an effort to be a good steward of government funds, GSA reviewed the hours.

Although the order file itself does not contain documentation of JMA's work products, GSA did receive verbal assistance and written products during the course of the task order and those deliverables were used and leveraged by the GSA communication team and senior leadership. As a result of the IG bringing this oversight to our attention, GSA has now incorporated copies of all the deliverables into the task order file and has already taken steps to educate our acquisition teams for future contracting actions.

The Scope of Work Performed

Because of the urgency of the situation and the growing intensity of public and employee concerns in early 2010, GSA expeditiously awarded the task order and began working with JMA. Together, we developed a communications and contingency plan for an alternate site for the Child Care Center; discussed the results of environmental testing; and launched expanded communication and community outreach efforts. GSA maintained its role as spokesperson and directly oversaw all messaging, communications, and outreach efforts. By the end of February, significant progress had been made. Facts were now displacing earlier misperceptions. Tenants and employees began to understand the true nature of past and present environmental conditions. But more work needed to be done.

Due to the continuing high volume of inquiries from the media, current and former employees, various Federal agencies, and the public, GSA extended the services under the original agreement with JMA for an additional two months. In addition to handling these inquiries, the scope of work with JMA for these two months aimed at phasing out JMA's services and transferring expertise to GSA, honing the crisis management skills of GSA employees so that future communications, strategic planning, and leadership counseling related to the Bannister Federal Complex could be undertaken in-house.

JMA performed the following work related to the Bannister Federal Complex:

- Provided counsel to senior PBS leadership to determine the best next steps to address the concerns of the various stakeholders
- Provided extensive communications facilitation and mediation among EPA, GSA, and DOE
- Performed extensive research on the 68-year history of the Complex, the potential health implications of exposure to the contaminants, (polychlorinated biphenyls, trichloroethylene, uranium, beryllium), and the Federal and local environmental rules applicable to the facility
- Assisted in developing the skills and knowledge of in-house staff in preparation for taking on the crisis communications role
- Provided consultation and identification of GSA resources for ongoing risk communication and management, helped build the framework for a community panel and interagency leadership panel, and provided support to GSA in planning and implementing communications outreach strategy.

The Results Are Positive

The Bannister Federal Complex has been and continues to be a healthy place to work. At GSA's request, the National Institute for Occupational Safety and Health (NIOSH) conducted a health hazard evaluation at the GSA location and did not find any cases of chronic beryllium disease resulting from people working on the GSA-controlled side of the complex. NIOSH also performed an extensive review of our environmental testing history and current work plan. Based on results from past and current testing, NIOSH does not recommend additional testing. At this time, based on the results of the testing over the past two decades, there is no reason to believe the GSA-controlled space in the Bannister Federal Complex poses health risks to workers, visitors, or children at the Child Care Center.

The three months of services provided by JMA assisted GSA during a complex time of heightened employee and public concern. The situation at the Bannister Federal Complex was unique and gave rise to a compelling need for specialized expertise which JMA was able to provide. This engagement was a short-term, stop-gap measure, limited in scope and lasting only a few months. It was ended as soon as possible. With JMA's assistance, GSA was able to effectively and timely communicate information to tenants and the public to help calm fears and dispel misperceptions.

Conclusion

GSA Heartland Region appreciates the opportunity to come here today to testify on GSA's decision to acquire crisis and environmental communications expertise. Our goal always has been and will continue to be ensuring the safety of those working at and visiting the Bannister Federal Complex. We continue to partner with EPA to execute our environmental work plan to identify if further action is necessary. We also

continue our work with NIOSH to address health concerns. And we will maintain our proactive communication outreach – for our tenants, employees and our community.

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