



U.S. OFFICE OF SPECIAL COUNSEL

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Washington, D.C. 20036-4505

The Special Counsel

October 30, 2015

The President
The White House
Washington, D.C. 20510

Re: OSC File Nos. DI-12-3233 and DI-13-4055

Dear Mr. President:

Pursuant to my duties as Special Counsel, enclosed please find the General Services Administration's (GSA) report based on disclosures of wrongdoing at the Bannister Federal Complex (the Complex), Kansas City, Missouri. The Office of Special Counsel (OSC) has reviewed the report and, in accordance with 5 U.S.C. §1213(e), provides the following summary of the allegations and our findings.

David Hendricks (deceased), a retired Complex employee and Jim Daniels, a current Complex employee (the whistleblowers), both of whom consented to the release of their names, disclosed that GSA employees may have violated laws, rules, or regulations; engaged in gross mismanagement and an abuse of authority; and created a substantial and specific danger to public health and safety. Specifically, the whistleblowers disclosed that GSA employees failed to take appropriate precautions to protect employees in the Maintenance & Operations Division (M&O) from exposure to unsafe concentrations of asbestos and other toxic chemicals, including beryllium; and failed to provide a medical surveillance program for all current and former employees who may have been exposed to unsafe concentrations of asbestos and other toxic chemicals.

The agency did not substantiate Mr. Hendricks and Mr. Daniels's allegations. Rather, it found that GSA has maintained a health and safety program compliant with regulatory requirements and consistent with the standard industrial hygiene practices in place at the time of the allegations. The agency's finding, however, is inconsistent with prior investigations of the Complex, which could not establish that GSA historically maintained a safe and healthy workplace.¹ The GSA report discounts important evidence of exposure—the testimony of a subset of GSA employees working in space shared by GSA and the Department of Energy (DOE) at the time. Although the

¹ U.S. General Services Administration, Office of Inspector General, *Review of Health and Safety Conditions at the Bannister Federal Complex, Kansas City, Missouri*, Report No. A100116/P/6/R11001, November 8, 2010; U.S. General Services Administration, Heartland Safety & Environmental Team, *Hazard Report and Assessment, Region 6 Asbestos Management/Asbestos Medical Surveillance Programs for GSA Region 6, Public Building Service*, November 4, 2013; and U.S. General Services Administration, Office of Inspector General, Office of Audits, *PBS's Identification and Management of Environmental Risks Need Improvement*, Report No. A130131/P/R/R15003, March 20, 2015. Copies are attached and marked as Enclosures A – C.

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report meets all statutory requirements for completeness and the findings appear to be reasonable based on the information available to GSA, this information is insufficient to evaluate the whistleblower's allegations. Therefore, I urge the agency to continue to monitor employee health and improve its occupational health and safety programs in all of its facilities.

Mr. Hendricks's allegations were referred to then-Acting Administrator Daniel M. Tangherlini, to conduct an investigation pursuant to 5 U.S.C. §1213(c) and (d). Acting Administrator Tangherlini secured a private consultant, Clover Leaf Solutions, Inc., to conduct an investigation into the allegations made by Mr. Hendricks. Mr. Hendricks died in July 2013, while the investigation was pending. On September 6, 2013, I referred to Administrator Tangherlini allegations from a second whistleblower, Mr. Daniels. On November 21, 2013, GSA submitted the agency's report to OSC. Pursuant to 5 U.S.C. §1213(e)(1), Mr. Daniels provided comments on the agency report on March 3, 2014. On January 28, 2015, Mr. Hendricks's widow, Marilyn J. Hendricks, provided comments on the agency report.

At OSC's request, GSA provided additional information in a supplemental report dated September 16, 2015. Mr. Daniels and Ms. Hendricks provided comments on the report on September 21, 2015 and September 28, 2015, respectively. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the report and comments to you.²

I. Mr. Hendricks and Mr. Daniels's Disclosures

A. Background

The Complex is a 310 acre site located in Kansas City, Missouri. The Department of Energy (DOE) controls over 30 buildings, comprising more than three million square feet of space, with approximately 2,550 employees. GSA controls the remaining two million square feet, including 12 buildings, used primarily as office and storage space for numerous government agencies. There are approximately 1,400 government employees in the GSA-controlled portion of the Complex, and 75 children enrolled in an on-site child care facility. The Complex was developed in 1942 as a manufacturing plant, and chemicals currently known to be harmful to humans and the environment were used there.

² The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(c). Upon receipt, the Special Counsel reviews the agency report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

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A 2010 review of health and safety conditions at the Complex, conducted by the GSA Office of Inspector General (OIG), concluded that although appropriate controls are now in place, GSA could not provide assurances that the Complex has historically been a safe and healthy workplace. A 2010 review by DOE, which housed the National Nuclear Security Administration's (NNSA) Kansas City Plant (Plant) at the Complex, found that DOE then had controls in place to appropriately protect the environment and the health and safety of employees.³ However, the DOE report found that the Complex historically experienced environmental incidents resulting in soil and groundwater contamination, some of which continue to exist. Although the Plant had "what appeared to be appropriate environmental and worker health and safety systems in place," the report noted that it was not and should not be viewed as an epidemiological study of the health consequences or long-term effects of exposure to contaminants at the Plant.

In 2011, NIOSH conducted a health hazard evaluation (HHE) at GSA's request in response to concerns about adverse health effects possibly associated with contamination of soil and groundwater by the Plant. The evaluation did not include the Plant or its employees, but only those who worked at GSA or a tenant agency other than the Plant. The HHE found that Complex employees had never experienced significant exposure from substances at the Plant. However, the HHE did not consider a subset of GSA M&O employees, including plumber-pipefitters, electricians, and air conditioning mechanics, who performed work at the Plant. Mr. Hendricks and Mr. Daniels were among this group of employees as discussed below.

Mr. Hendricks worked in the M&O Division, Trade and Craft, and was assigned to the Kansas City South Field Office as a plumber-pipefitter and in other trade and craft related functions from 1961 until his retirement in 1994. In addition to his work in the GSA-controlled portions of the Complex, he and other M&O employees performed maintenance tasks at the Plant pursuant to an agreement between GSA and DOE.

In 1988, a chest X-ray of Mr. Hendricks taken as a part of medical monitoring of employees showed pleural changes, consistent with exposure to hazardous materials. Subsequent chest X-rays in 1989 and 1990 also identified pleural changes. Subsequently, GSA retained a different physician to review chest X-rays and, in 1991, Mr. Hendricks's reading was normal. Significantly, four other M&O employees also had positive readings between 1988 and 1990, and negative readings in 1991.

Mr. Hendricks contended that GSA failed to comply with Occupational Safety & Health Administration regulations contained in Title 29 of the Code of Federal Regulations, when it accepted the negative findings in the 1991 chest X-rays. He asserted that the abrupt change in findings was the result of the GSA's failure to use an appropriately classified radiologist as required by 29 CFR 1910.1001, Appendix E, and an attempt to negate prior findings indicating the health consequences of exposure to asbestos, beryllium or other

³ U.S. Department of Energy, Office of Inspector General, Office of Audit Services, *Environment and Worker Safety Control Systems at the National Nuclear Security Administration's Kansas City Plant*, Audit Report No. DOE/IG-0839, September 2010. A copy is enclosed and marked Enclosure B.

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toxins. After Mr. Hendricks challenged the 1991 findings, the doctor reading the chest X-rays reviewed his films again and qualified the negative finding, asserting that fat deposits may have caused the pleural changes. Subsequent X-rays in 1992, 1993, and 1994 reflected the positive findings previously identified.

Mr. Hendricks and Mr. Daniels also asserted that current GSA M&O employees were not being offered medical monitoring following exposure to asbestos as required by 29 CFR 1926.1101. They stated that employees have been offered only annual pulmonary function tests, rather than the comprehensive physical examinations required by Part 1926.

Mr. Hendricks, Mr. Daniels, and approximately 40 other M&O employees worked at the Plant while employed by GSA. These employees worked extensively in the fan rooms, both in the Plant and on the GSA-controlled portion of the site, physically changing large roll filters that captured contaminants. Mr. Hendricks and Mr. Daniels explained that they worked in fan rooms that were common to both the GSA-controlled portion of the Complex and the Plant. All of the fan rooms at GSA drew outside air into the building from nearby ventilation stacks from the Plant. In addition, they reported that water from the DOE-controlled portion of the site traveled to the GSA-controlled portion, and they and other M&O employees were responsible for pipe repairs occasioned by the breaks or leaks on the DOE-controlled portion of the site.

The whistleblowers also stated that they and other M&O employees regularly performed maintenance and repairs on the sewage ejection system. The sewage systems for the GSA-controlled portion of the site and the Plant were shared, at least at the level of the pits to which all sewage flowed before being pumped up and out of the facility. Thus, contaminants disposed of at the Plant, such as the chemical residue from barrel-washing operations, were washed into common pits, which were then pumped to the street level. When a sewage back-up occurred, potentially contaminated sewage was released into the GSA-controlled side.

Mr. Hendricks and Mr. Daniels reported that the agency has not taken sufficient action to protect employees from the hazards known to exist at the Complex. Such actions include notifying employees of the potential for exposure and providing a medical surveillance program for all employees who were exposed at or above a permissible exposure limit.

In contrast to the comprehensive medical surveillance program in place for DOE employees and former employees who worked at the Plant, GSA has not established a comprehensive medical monitoring program for its own employees. Nor are GSA employees who worked at the Plant recognized as a Special Cohort eligible for compensation for illness caused by their employment under the Energy Employees Occupational Illness Compensation program, despite their exposure to the same contaminants that affected Plant employees. Many of the M&O employees who worked at the Plant have since died.

Moreover, none of the investigations, audits, or evaluations performed by GSA, DOE, and NIOSH examined the potential exposure of GSA employees who performed work at the

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Plant. The GSA OIG investigation found, "...prior to 2010, [GSA] did not have a strong environmental management program for the Complex," and "without a comprehensive historical perspective, there is insufficient evidence to conclude that occupants at the Complex were not exposed to hazardous toxins." The GSA OIG review concentrated on the time period 1999 through 2010. No historical review or investigation of employee health hazards has been completed for the time period prior to 1999. The whistleblowers asserted that such a review is necessary in order to establish the exposure GSA employees may have experienced as a result of the cross-contamination from the Plant, as well as from working on Plant equipment on DOE-controlled property.

II. The Agency Report

GSA engaged the services of a private contractor to conduct the investigation, Clover Leaf Solutions, Inc. (Clover Leaf). Clover Leaf reviewed previous investigations, examined medical and personnel files, and conducted on-site interviews. Clover Leaf also conducted a walkthrough inspection of the Complex and found that GSA maintained a Health and Safety Program that was in compliance with regulatory requirements and consistent with the standard industrial hygiene practices in place at the time of the allegations. Results of their investigation indicated no basis for the allegations that GSA failed to comply with the requirements contained in the OSHA asbestos standards. The comprehensive medical exams administered by GSA went beyond OSHA medical surveillance program requirements for asbestos and noise hazards. In addition to chest X-ray and pulmonary function tests, as well as audiometric testing required by federal regulations, the comprehensive, annual exam conducted for M&O employees included blood analysis, urinalysis, vision testing, and electrocardiograms. These exams were performed on Mr. Hendricks during his employment with GSA but were neither required nor offered following his retirement.

Clover Leaf addressed the allegations in three broad categories: (1) Mr. Hendricks's "perception" that GSA has been out of compliance with OSHA requirements regarding employee exposure to hazardous chemicals; (2) "issues" with the manner in which previous studies and investigations by the GSA OIG, DOE, and NIOSH have been performed; and (3) GSA employees not being offered compensation under a program similar to the DOE Energy Employees Occupational Illness Compensation Program. The scope of work under the Clover Leaf contract did not involve any new environmental or industrial hygiene monitoring studies.

B. GSA Health and Safety Program

The report states that in addition to governmental agency reports, medical and personnel files, and the Injury/Illness Database provided by the former GSA Heartland Region 6 industrial hygienist, Clover Leaf reviewed "selected files." These files were obtained from a group of 7,564 electronic files totaling over 97,000 pages of historical environmental, health, and safety documents. The documents reviewed were selected by reviewing the names of the documents within 10 categories, and "those documents that appeared to be relevant to this investigation were then examined in more detail." According

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to the report, in general, there was a lack of available documentation prior to the 1980s and limited documentation from the 1980s. Clover Leaf reported that there was adequate documentation related to the medical surveillance program in the 1990s to investigate some of the allegations related to the GSA medical surveillance program offered to the complainants and other GSA M&O employees.

The investigators also conducted interviews with the former industrial hygienist for GSA Heartland Region, the current building manager for GSA Buildings 1 and 2 at the Complex, and three co-workers of Mr. Hendricks.

The report identified factors that “hampered the gathering of data and evaluation of conditions” during the investigation, including: Mr. Hendricks’s death; anecdotal reports of exposures and injuries without documentation from GSA; the retirement and subsequent unavailability of many of the M&O co-workers of Mr. Hendricks; a lack of documentation prior to the 1980s; and limited documentation from the 1980s. The report also cited a concern that the current physical layout of the Complex may not be the same as it was during Mr. Hendricks’s career, especially the rooftop layout of building air handling systems on both the GSA and the Plant sides of the building.

The Clover Leaf report found that prior reviews of the Complex, including a Department of Energy Inspector General’s report, concluded that Plant employees were adequately protected. The report is cited as concluding, “[w]hile we cannot provide absolute assurance, the results of our work indicated that the systems were working as intended.” The whistleblowers alleged that although this report considered Plant employees’ exposures, it did not consider a subset of employees, including the whistleblowers, who were GSA employees who performed work at the Plant. Clover Leaf’s report acknowledges that this is true. It concludes that it is “not possible to determine the number of GSA M&O (M&P) employees in the study, and whether age, gender, or other factors, including occupation, were considered in analyzing the morbidity and mortality patterns in the interviewed group.” As such, Clover Leaf concludes that it “appears to be speculation on the part of the complainants that M&O employees are experiencing higher morbidity and mortality than the other study subjects or the general population.” Neither GSA nor Clover Leaf conducted any reviews to determine whether or not this could be confirmed. Rather, Clover Leaf concluded that it was purely speculative on the part of the whistleblowers and did not substantiate the allegation.

C. Employee Medical Monitoring

The Clover Leaf report partially substantiated Mr. Hendricks’s allegations that employee chest X-rays were read as positive for exposure to asbestos prior to 1991, and were read as negative in 1991. The Clover Leaf report notes that the changes in reader interpretations occurred with respect to asbestos exposure, not to exposure to “hazardous materials,” as chest X-rays were being performed as part of OSHA 29 CFR 1910.1001 – Asbestos (General Industry) and 29 CFR 1926.1101 – Asbestos (Construction Industry). In reviewing the allegations, the X-ray histories of the identified employees were reviewed for the period 1988 until 1994. During this period, occupational health services were provided by

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Federal Occupational Health (FOH), which is a component of the U.S. Public Health Service within the Department of Health and Human Services. FOH contracted with third parties to provide radiology services. From 1988 through 1994, three different B readers were used, with changes occurring in 1991 and 1994. Clover Leaf substantiated the whistleblowers' allegations that the reading differences did occur, and were the subject of extensive communications between Mr. Hendricks, representatives of the American Federation of Government Employees, GSA safety, labor, and management officials, FOH officials, and others. According to the report, issues associated with the medical surveillance X-ray procedures and B-reader interpretations were never settled by GSA to Mr. Hendricks's satisfaction. FOH's position, as of 1993, was that B-readings are subjective, and that it is not unusual for two B-readers to have different findings on marginal changes. Notwithstanding the differences identified, the Clover Leaf report notes that "the marginal changes observed were 'consistent with asbestos exposure' or 'suggesting prior asbestos exposure,' and also were 'consistent with, but not strictly diagnostic of, asbestos exposure.'" Moreover, the subsequent X-rays taken in 1992, 1993, and 1994 reflected the positive findings previously identified.

The report concludes that there is "no evidence that GSA was attempting to negate the medical findings prior to 1991, or that the different findings were due to GSA failing to comply with the Occupational Safety & Health Administration regulations contained in Title 29 of the Code of Federal Regulations." Finding no evidence that the B-reader conducting the 1991 reading was not qualified, the report nonetheless acknowledges that the same B-reader conducted a second review of the 1991 films. Later reviews by other B-readers considered X-rays from prior to 1991 as well as current films. The Clover Leaf report concludes that the FOH claim that different B readings were due to interpretation differences between the different B readers "may be valid," and cites numerous published references supporting this idea.

The Clover Leaf report indicated that Mr. Hendricks was not entitled to medical surveillance testing after he retired. It did not substantiate the allegation that current M&O employees are not being offered medical monitoring. The report explained that GSA Heartland Region 6 no longer has M&O employees, because all M&O activities have been contracted out. According to the report, "because GSA is no longer the direct employer of these contractors, GSA is not responsible for meeting the OSHA medical surveillance requirements...." Similarly, former M&O employees who remain under GSA employment but in other activities where they no longer perform any of their previous M&O activities are not entitled to medical monitoring. Notwithstanding this finding, the Clover Leaf report indicated that as a "good faith gesture" toward the former M&O employees still employed, but no longer doing M&O work, GSA has continued to provide medical exams to track any potential lung changes related to the latency of asbestos disease. The medical exams include only a pulmonary function test (PFT), rather than chest roentgenograms, based on advice from FOH that indicated lung changes will be detected earlier with a changing PFT.

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D. GSA Employees Who Performed Work at the Plant

The Clover Leaf report accepted as true the statements of the whistleblowers that they performed duties at the Plant while employed by GSA. However, the report stated that there is no evidence of a significant exposure to M&O employees from the materials used in the Plant. The Clover Leaf report cited the NIOSH HHE investigation of the current and past shared ventilation systems as well as the re-entrainment of exhausted air from Plant ventilation systems into the outdoor intakes of the GSA ventilation system. Clover Leaf's report stated that its investigation concurred with the HHE findings, reported in April 2011, "[b]ased upon the information we have obtained to this point, we believe that Bannister Federal Complex employees have no significant exposure from substances in use now or in the past at [the Plant]. Our careful and thorough review of documents, monitoring and exposure records, our assessment of work areas, and our interviews with multiple employees, managers, and supervisors all found minimal potential for exposure." It should be noted that HHE's review did not consider the specific subset of GSA M&O employees who performed work at the Plant.

The Clover Leaf investigation found that the injury/illness database for the Complex contains a single event related to a potable water leak from the Plant side of the building into the GSA side that resulted in two employees seeking medical treatment. In 1995, a water line broke on the Plant side and entered GSA space, leaking through an old wood-block floor above the sub-basement, where it was contaminated with creosote and, possibly, with polychlorinated biphenyls (PCBs) contained in the wood blocks. Of the 10 M&O employees who responded, none of whom was wearing PPE, three complained of burning and itching skin. Two of these three then sought medical treatment. There was no evidence of long-term medical problems from the exposures.

According to Clover Leaf, there are no other instances in the injury/illness database of injuries or illness that are associated with potential contaminants from the Plant side of the building. Based on interviews with the whistleblowers' co-workers, the report acknowledges that there "appear to be anecdotal reports of exposures and injuries, but there are no documented reports of these events. Further investigation into these events would be needed to determine their validity and the potential for employee exposure to contaminants from the Plant side of the building." It is unclear why GSA did not further investigate these specific events, other than that such investigation would be outside the scope of work called for by the contract between GSA and Clover Leaf for investigation of the whistleblowers' allegations.

The Clover Leaf report further concluded that there is "insufficient information to determine (a) the frequency that M&O employees performed maintenance and repairs on the sewage ejection system, (b) if any contaminants were or were not washed into the pits from barrel washing, or any other Plant operations, and (c) whether or not M&O employees were exposed to Plant contaminants while performing maintenance and repairs on the sewage ejection system." It also concluded that "it is doubtful that the information that would be needed to resolve this allegation exists." Therefore, according to Clover Leaf, "it appears to

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be speculative that M&O employees were potentially exposed, as, primarily, only anecdotal verbal reports from Mr. Daniels and similarly concerned coworkers of Mr. Hendricks have been offered as information.”

Notwithstanding these conclusions, the Clover Leaf report substantiated the whistleblowers’ understanding that the sewage ejection systems are shared by the Plant and the GSA portion of the building. The report concludes: “Consequently, if any contaminants were disposed of in the Plant sewage system, they would flow into the common sewage pits on the GSA side of the building, and any sewage back-ups might involve contaminated sewage.”

Relying on the 1995 OSHA survey, Clover Leaf noted that any maintenance on the sewage ejector pits on the GSA side would have required an entry permit for confined spaces, due to atmospheric hazards, including the presence of local fire and rescue service. The Clover Leaf report supplies no independent evidence that such permits were obtained. The whistleblowers and their co-workers maintain that they cleaned up sewage spills over the years without such precautions having been taken. Clover Leaf nonetheless concluded that “[t]here is no documented evidence to either prove or disprove that any employees were ever exposed above a PEL [permissible exposure limit] during their career.” The report stated that despite the lack of documentation, the agency appears to have taken sufficient actions to identify likely potential occupational exposures for GSA workers, and to have taken the necessary steps to mitigate the potential hazards. These include hazard assessments, medical surveillance programs (where appropriate), training, and the issuance of PPE where necessary.

The Clover Leaf report stated that there is also no evidence that Mr. Hendricks and other GSA employees were exposed to the same hazards as Plant workers that would warrant placing them within the special cohort under the DOE compensation program. The report also stated that there is “no evidence that GSA should establish a comprehensive medical surveillance program identical to the DOE, or that M&O workers at [the Complex] are experiencing abnormal mortality/morbidity due to an occupational exposure to unidentified hazardous materials.”

Addressing the whistleblowers’ contentions that many of the 41 identified M&O employees potentially exposed during or prior to the 1980s have since died, the Clover Leaf report concludes that the list of identified employees is “anecdotal and does not demonstrate whether or not the M&O employees have a higher-than-expected mortality rate attributable to their employment.” According to Clover Leaf, until the list is analyzed by a competent epidemiologist with respect to the various factors that might affect mortality rates, which was outside the scope of the Clover Leaf contract, the list itself does not support the implication that these deaths are due to the employees’ occupational exposures.

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E. Prior Investigations

The Clover Leaf report does not substantiate the whistleblowers' allegation that the prior investigations did not examine the potential exposures of GSA employees who performed work at the Plant and, therefore, a comprehensive review is necessary to establish exposures as a result of the cross-contamination from the Plant and from working on Plant equipment on DOE-controlled property. The 2010 OIG review of health and safety conditions at the Complex considered a historical review of worker's compensation claims from 1988 through 2010. During that time period, 75 of 4,081 claims filed were related to environmental or chemical exposure. None of the 75 claims was found to be related to long-term exposure to toxic substances.

III. GSA's Supplemental Report

GSA's supplemental report addressed concerns raised by OSC regarding the inconsistencies between the Clover Leaf report and the GSA reports. GSA clarified that the scope of the Clover Leaf investigation was limited to an examination of the results of all prior investigations of the Complex, and was not intended to create a wholly new study. The supplemental report reiterated that the Clover Leaf report found that GSA consistently maintained a compliant Health and Safety Program, and administered comprehensive medical exams that went beyond the OSHA requirements for asbestos and noise hazards. GSA maintains that its practice of identification and prompt remediation, including in connection with the 2010 OIG's findings, is representative of the quality of its "consistently maintained program." It should be noted that GSA relies on the fact, which it takes to be unrefuted, that its testing program has uniformly resulted in no adverse health findings. However, GSA's own November 2013 review of the region's medical surveillance program found critical failures: "The informal medical surveillance program for the region is flawed and inconsistent...." The GSA supplemental report cites the 2010 OIG's findings, noting that worker's compensation claims were reviewed and "do not indicate that occupants of the Complex were subjected to sustained toxic substance exposure." Nevertheless, the OIG also concluded, "...in the absence of a strong environmental management program, GSA's request to NIOSH to study potential long term health issues is prudent" (emphasis added).

The GSA supplemental report also addressed inconsistencies identified by OSC in the representations made by Clover Leaf in connection with the NIOSH HHE. The supplemental report includes correspondence from NIOSH clarifying that its review assessed only whether GSA employee's health problems, including cancer, were due to contamination of the buildings, soil, and groundwater of the Complex from the adjoining building (the Plant). The HHE focused on "evaluating the potential for the Plant's historical contamination to migrate to the GSA building" and evaluated employees reporting to work in GSA buildings. As the whistleblowers alleged and the Clover Leaf report confirmed, the M&O employees performed work that was different from the GSA office workers who reported to work daily in the GSA building. In its supplemental correspondence, NIOSH highlighted two misstatements in the Clover Leaf report, stating that the HHE "was not intended to be an all-encompassing historical review" and that data provided by GSA did not contain

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documentation prior to the 1980s. Second, NIOSH noted that GSA's report to OSC dated February 28, 2013, states: "the HHE found that Complex employees had never experienced significant exposure from substances at the plant." Rather, the HHE concluded that NIOSH "did not find evidence that complex employees had exposures to metals, VOCs, PCBs, or ionizing radiation, either currently or from past contamination from the adjoining weapons component agency at levels of concern." NIOSH concluded that although it did not find evidence of current or recent exposures of concern, it "cannot conclusively assert that employees have never been significantly exposed during the lifetime of the facility – particularly prior to the 1980s."

GSA's supplemental report also considered OSC's request that GSA analyze the occupational health status of the 40 GSA employees identified by the whistleblowers as the cadre of M&O employees, which includes the whistleblowers.⁴ Citing the NIOSH report and other investigations, GSA declined to conduct any additional study. To secure an independent review, GSA sought an opinion from the office of Federal Occupational Health (FOH) on the feasibility of performing a specific analysis of the 40 GSA M&O employees. FOH responded that, based on the NIOSH study, no workplace exposure was documented, and therefore no further epidemiologic studies are indicated. GSA concluded, "The allegations the complainants presented to OSC lack merit." As such, GSA does not plan to take any further action other than to continue to maintain and improve GSA's occupational safety and health programs, nationwide.

IV. The Whistleblowers' Comments

Mr. Daniels provided extensive comments with supporting documentation. His main criticism of the report relates to Clover Leaf's conclusion that "it appears that GSA has consistently maintained a Health and Safety Program that was in compliance with regulatory requirements and consistent with the standard industrial hygiene practices in place at the time of the allegations." Mr. Daniels's comments highlight the inconsistency in Clover Leaf's finding that during the relevant time period covered by the allegations, there was a lack of available documentation prior to the 1980s, and limited documentation from the 1980s. He posits that this is evidence that, consistent with the 2010 OIG investigative findings, GSA could not provide assurances that the Complex has historically been a safe and healthy workplace. Mr. Daniels notes, to his knowledge, the Complex is the only facility nationally to house both nuclear manufacturing and federal agencies in the same building. Also unique to the Complex was that a subset of employees, the "forgotten" GSA M&O employees, worked in the Complex to assure continuity of utility operations. Their duties, as well as those of their counterparts on the DOE-controlled side of the building, were essential to the operations of the federal agencies as well as the DOE manufacturing operations that supported the nuclear program through the cold war years and beyond. The GSA M&O employees worked on equipment on both sides of the Complex and in areas where ventilation systems were common.

⁴ The supplemental report corrected the reference from 41 employees to 40, since the list contained a duplicate name.

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DOE employees have been provided a compensation fund for claims, but the “forgotten” GSA employees have not. No prior reports covered this subset of employees; the NIOSH report was cited by Clover Leaf as meeting “the complainant’s request for a historical review of potential employee health hazards that GSA employees and other tenant agency employees may have experienced as the result of substances used in the Plant.” Mr. Daniels disagrees, and states that the report presents no fact-based evidence that he, Mr. Hendricks, or the forgotten M&O workers were not exposed to hazardous toxins from the plant; nor does it prove that GSA offered protection to this subset of workers as required by law. In response to the supplemental report, Mr. Daniels notes that GSA’s rejection of OSC’s request for an additional study is in direct contradiction to the statement in the supplemental report that “the true measure of the quality of a consistently maintained program is that any shortcomings which may develop are promptly addressed when they are discovered.”

With GSA’s consent, Mr. Hendricks’s widow, Marilyn Hendricks, was provided the opportunity to review and comment on the report. She fully adopted Mr. Daniels’s comments on the report. She also noted that Mr. Hendricks was not given a termination of employment examination as required by OSHA regulations, within 30 days before or after the termination of his employment. It is not clear from the report whether Mr. Hendricks received such an examination within one year prior to the termination of his employment. Clover Leaf notes only that GSA was not required to provide medical surveillance following an employee’s retirement. Ms. Hendricks adopted Mr. Daniels’s comments on the supplemental report. She also reflected on the personal illnesses and losses that she has suffered, which she attributes to GSA’s failure to provide a safe and healthy work environment.

V. The Special Counsel’s Findings

I have reviewed the original disclosure, the agency report, and Mr. Daniels’s and Ms. Hendricks’s comments. As stated above, the findings appear reasonable based upon the information available to GSA. However, this information is insufficient to evaluate the whistleblowers’ allegations. Therefore, I urge the agency to continue to monitor employee health and improve its occupational health and safety programs in all of its facilities.

As required by 5 U.S.C. §1213(e)(3), I have sent copies of the agency report and the whistleblowers’ comments to the Chairmen and Ranking members of the Senate Committee on the Environment and Public Works and the House Committee on Transportation and Infrastructure. I have also filed copies of the agency report and whistleblower comments in our public file, which is available at www.osc.gov. OSC has now closed this file.

Respectfully,



Carolyn N. Lerner

Enclosures

ENCLOSURE A

REVIEW OF HEALTH AND SAFETY CONDITIONS
AT THE BANNISTER FEDERAL COMPLEX
KANSAS CITY, MISSOURI
REPORT NUMBER A100116/P/6/R11001
NOVEMBER 8, 2010



U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

Date : November 8, 2010

Reply to :
Attn of : Regional Inspector General for Auditing, Heartland Region Field Audit Office (JA-6)

Subject : Review of Health and Safety Conditions at the Bannister Federal Complex
Kansas City, Missouri
Report Number A100116/P/6/R11001

To : Jason O. Klumb
Regional Administrator, Heartland Region (6A)

Mary A. Ruwwe
Regional Commissioner, Heartland Region Public Buildings Service (6P)

This report presents the results of our review of the health and safety conditions at the Bannister Federal Complex (Complex) in Kansas City, Missouri. The review was performed in response to a February 3, 2010, request from United States Senator Christopher Bond.

The report found that the Heartland Region Public Buildings Service (PBS) is currently taking substantial steps to protect the occupants of the Complex and testing has revealed no significant health hazards in GSA-controlled space. However, we determined that prior to 2010, PBS did not have a strong environmental management program for the Complex.

We have included your written comments in Appendix C to this report. If you have any questions regarding this report, please contact me at (816) 926-8615.

A handwritten signature in cursive script, reading "John F. Walsh".

John F. Walsh
Regional Inspector General for Auditing
Heartland Region Field Audit Office (JA-6)
Kansas City, MO

REVIEW OF HEALTH AND SAFETY CONDITIONS
AT THE BANNISTER FEDERAL COMPLEX
KANSAS CITY, MISSOURI
REPORT NUMBER A100116/P/6/R11001

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INTRODUCTION

On February 3, 2010, Senator Christopher Bond sent a letter to the Inspector General of the General Services Administration (GSA) requesting a review of the environmental conditions at the Bannister Federal Complex (Complex). Specifically, Senator Bond's letter advised that current and former employees at the Complex may have developed serious illnesses and died as a result of exposure to toxic substances. We were asked to determine whether GSA's Public Buildings Service (PBS) took appropriate steps to protect the health and safety of the occupants in PBS space at the Complex. Subsequently, Senator Claire McCaskill and Congressman Emmanuel Cleaver also expressed their support of a review of the conditions at the Complex.

Since November 2009, a Kansas City news station and a Kansas City newspaper have run numerous reports regarding the health of current and former occupants of the Complex. These reports stated that the Complex has a history of known health hazards related to exposure to trichloroethylene (TCE), lead, petroleum hydrocarbons, beryllium, uranium, volatile organic compounds, and polychlorinated biphenyls (PCBs). The news reports further stated that such exposure may have resulted in illnesses and even the deaths of some of the occupants of the Complex. The basis of the news reports was a letter drafted by some occupants of the Complex that included a list of 95 names and indicated that these individuals had contracted cancer or other illnesses related to environmental conditions at the Complex.

Appendix A of this report describes the objective, scope, and methodology of our review in more detail. Appendix B provides a map, current usage information, and historical background of the Complex.

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RESULTS OF REVIEW

In response to employee concerns and various news reports, PBS has taken substantial steps to protect the health of the occupants of the Complex. These recent steps are encouraging, but prior to 2010, PBS did not maintain a strong environmental management curriculum that would have provided positive assurance that the space in the Complex was a safe and healthy work environment.

Current PBS efforts include enlisting the assistance of the U.S. Environmental Protection Agency (EPA)¹ and the Center for Disease Control's National Institute for Occupational Safety and Health (NIOSH). Since January 2010, EPA has been coordinating testing and providing oversight for environmental issues at the Complex. In March 2010, NIOSH began evaluating potential health issues at the Complex. These evaluations included health screening services for current and former Complex occupants. In addition, in February 2010, PBS made modifications to the Complex including the installation of vapor intrusion systems at the child care facility and an adjacent building (Building 50). Testing has revealed no significant health hazards present in the child care facility or in GSA-controlled space.

However, PBS did not always take appropriate steps to protect the health and safety of the occupants at the Complex when presented with evidence of potential hazards. In addition, PBS environmental personnel provided incorrect and misleading information in response to questions about the environmental conditions at the Complex. PBS personnel also did not have a clear understanding of environmental responsibilities pertaining to the GSA-controlled portion of the Complex and did not adequately document or maintain files related to health and safety conditions at the Complex. Finally, PBS may not have complied with the annual reporting requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

As a result, GSA cannot provide assurance that the Complex has historically been a safe and healthy workplace. Further, PBS's actions, along with the dissemination of incorrect information, have damaged GSA's credibility with both building occupants and the general public.

¹ While EPA has been involved in the testing performed at the Complex since January 2010, the formal work plan between GSA and EPA was executed on September 13, 2010. This work plan provides the details of the agreement between GSA and EPA.

No Indication of Current Health Risk at the Complex but Previous PBS Efforts in Environmental Management Were Lacking

Testing conducted in 2010, in response to the Kansas City media allegations, has not identified any significant health hazards at the Complex. However, PBS's current environmental oversight efforts are not representative of its performance in this area during the previous 10-year period. We determined there was a lack of effective environmental oversight at the Complex during that time. As a result, GSA cannot provide assurance that historically, the Complex has been a safe and healthy workplace.

Current Testing Shows No Significant Health Hazards and GSA is Taking Proactive Measures

During 2010, PBS undertook significant efforts to ensure the Complex was free of environmental occupational hazards. These efforts were pursuant to the requirements of Executive Order 12196, 29 CFR² Part 1960.8(a), and GSA Order ADM P5940.1A, which state that GSA must provide all individuals who work in GSA-owned or operated facilities, a safe environment that is free from health hazards. Specifically, the Executive Order states, in part, that the head of each agency shall, "Furnish to employees places and conditions of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm."

PBS efforts have included tests for toxic substances at the Complex. These air, soil, and water analyses were generally conducted under the direction of the EPA and have indicated that the occupants of the Complex are not currently at risk from exposure to these substances. GSA has also entered into a work agreement with the EPA to provide assistance and oversight to PBS at the Complex involving environmental matters.

In addition to testing for toxic substances, PBS installed vapor intrusion systems and took other steps to address environmental issues at the Complex. These steps included: (1) testing occupants of the Complex for various illnesses that could be related to toxic substances that have been present at the site, (2) creating an environmental council to assist in the management of environmental issues at the Complex, and (3) taking actions to inform and assist the occupants concerning environmental matters at the Complex.

PBS and the Regional Administrator for GSA's Heartland Region also requested assistance from NIOSH to evaluate the Complex and its occupants for possible health conditions related to exposure to toxic substances. On September 29, 2010, NIOSH provided an interim report regarding GSA's request for a health hazard evaluation. The report states that, to date, NIOSH has found no issues related to beryllium, uranium, or

² Code of Federal Regulations

volatile organic compounds.³ NIOSH stated that a final report will be issued after all tests are completed but did not provide a completion date.

Prior PBS Environmental Management Was Lacking

Prior to 2010, PBS addressed specific issues when raised by tenants but did not have a strong environmental management program for the Complex. Given the known contamination at the Complex and given the requirement to protect the health and safety of building occupants, we believe PBS should have been more vigilant in overseeing environmental issues at the Complex. Further, we are troubled by the lack of knowledge on the part of PBS officials about safety and environmental conditions at the Complex. They were even unaware of their responsibilities for these conditions.

Ad Hoc Testing. Despite initial PBS reports that it performed comprehensive annual and 5-year environmental testing at the Complex, we determined that PBS performed no routine environmental testing. For the period 1999 through 2009, we identified 124 separate environmental tests/analyses/inspections that were performed at the Complex. These evaluations were performed in response to specific incidents and/or requests. They addressed different environmental and health issues including air quality, water analysis, lead analysis, asbestos testing, beryllium testing, PCB sampling, soil analysis, silica dust remediation, and mold sampling. When problems were identified, the documentation indicates that PBS took actions to address the issues.

For a historical perspective on employee work related illnesses, we also reviewed workers' compensation claim information filed by federal employees at the Complex from 1988 through April 9, 2010. During that time period, a total of 4,081 workers' compensation claims were filed, of which 75 accepted claims could possibly be attributable to environmental or chemical exposure. However, these claims were typically for exposure to unusual smells or unidentified liquids with reactions such as coughing or burning of the eyes. None of the 75 claims were related to long term exposure to toxic substances.⁴

Previous ad hoc testing and our review of the workers' compensation claims do not indicate that occupants of the Complex were subjected to sustained toxic substance exposure. However, in the absence of a strong environmental management program, GSA's request to NIOSH to study potential long term health issues is prudent.

Lax Oversight. The PBS approach to environmental issues at the Complex is illustrated by its response to a January 7, 2005, letter from the Missouri Department of Natural Resources (MDNR) regarding environmental conditions at the Complex. MDNR

³ Two samples exceeded the recommended exposure limit (REL) for formaldehyde but the report stated the REL was being re-evaluated and did not state that formaldehyde exposure was an issue at the Complex.

⁴ No claim contained the Nature of Injury Code DE – Occupational Exposure to Chemicals/Toxins/Biological Substance, etc.

prepared the 11-page letter in response to PBS's request for comments on a draft report (relating to TCEs) prepared by a PBS environmental consultant.

The MDNR letter was highly critical of the consultant's report stating,

It appears to the department that the General Services Administration (GSA) believes that they only need to conduct a limited investigation of TCE contamination, speculate on whether Department of Energy's (DOE) remedies are controlling the contamination and conclude that there are no risks to human health or environment under the current conditions.

and

The document is biased towards a conclusion of no further action, where instead, it should focus on what data gaps exist and what further work needs to be done, especially since this is an interim report.

and related to the child care facility,

Instead, the document should propose a complete vapor intrusion study using acceptable methods as outlined in the EPA guidance.

Despite the seriousness of the issues raised in the MDNR letter, PBS took no further substantive investigative action until it initiated a preliminary assessment/site inspection (PA/SI) in July 2006, 18 months after the letter. The PA/SI was not completed until May 2008 (3 1/2 years after the MDNR letter) and the original scope of work did not include action related to the child care facility concerns raised by MDNR. PBS never provided MDNR a response addressing each of MDNR's concerns and the vapor intrusion system that addresses one of MDNR's concerns related to the child care facility was not installed until February 2010 (5 years after the letter). We also noted that on October 7, 2005, MDNR offered to provide assistance to PBS regarding environment issues at the Complex; however, PBS terminated MDNR's environmental oversight contract on October 24, 2005.

While we were informed by PBS personnel that the PA/SI was initiated in response to MDNR's concerns, we noted that PBS file documentation indicates that the PA/SI was performed because the Complex was included on the Federal Agency Hazardous Waste Compliance Docket (Docket) rather than in response to the MDNR letter. Further, we noted that PBS environmental personnel did not inform regional PBS management of MDNR's concerns.

Another example of PBS's lax oversight is reflected in its handling of wells installed to monitor groundwater contamination. PBS installed two monitoring wells at the Northwest portion of the Complex prior to 2002. It installed an additional monitoring well in the same area during 2002 and six more in 2006. However, aside from initial testing

and one test in 2004, these wells were not monitored until the DOE (that operates a three million square foot plant at the Complex) began testing the wells in 2008.

Although PBS is currently diligent in pursuing environmental issues at the site, its efforts were slow to start. In August 2009, a Heartland Region PBS official received a draft letter that was addressed to the two sitting U.S. Senators from the state of Missouri. This letter, which was the basis for later news reports, indicated that over 90 occupants of the Complex had contracted illnesses attributable to contamination at the Complex. The PBS official contacted safety and environmental management personnel about the draft letter and was provided assurances that the Complex was safe. The draft letter was not provided to the Acting Regional Administrator and no work on this issue was performed by the safety and environmental personnel until January 2010, after the environmental conditions at the Complex became the focus of media reports. PBS safety and environmental files did not contain any documentation indicating that the letter was evaluated in any form.

Lack of Knowledge. PBS officials do not appear to have a clear understanding of PBS's environmental responsibilities relative to the GSA-controlled portion of the Complex. For example, PBS environmental personnel could not provide accurate information about the environmental regulations that pertain to the GSA portion of the Complex. PBS environmental personnel often directed us to EPA and DOE for the answers to environmental questions regarding the Complex.

Since the late 1980s, the Complex has been listed in the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS). CERCLIS is an official repository for Superfund data in support of CERCLA. CERCLA (also known as the Superfund Act) Section 120(c) requires EPA to establish a Docket which contains information reported to EPA by federal facilities. Each Docket facility is required to conduct a preliminary assessment to identify and investigate areas potentially contaminated by hazardous waste. EPA's website indicates that GSA completed a preliminary assessment and site inspection for the Complex on January 20, 1989. After this assessment, EPA evaluated the environmental conditions at the Complex and did not place the Complex on the National Priorities List (NPL). The NPL is a listing of sites that are of a higher priority for clean up due to contamination.

PBS environmental personnel could not provide basic information regarding the CERCLA status of the Complex or EPA oversight responsibilities for the Complex. We further note that PBS personnel did not have regular meetings with EPA or DOE environmental staff. We believe that regular interaction with both entities was needed to acquire and maintain a basic knowledge of conditions at the Complex and any related actions that should be taken.

In addition, consistent with the PBS records regarding the January 2005 MDNR letter, the safety and environmental file documentation and interviews with PBS environmental personnel indicate that the environmental personnel generally did not bring environmental issues to the attention of Heartland Region or central office management.

Summary. The lack of proactive environmental management by PBS is a vulnerability for GSA.⁵ PBS should have established a stronger environmental management program because of the history of contaminants at the Complex. Without a comprehensive historical perspective, there is insufficient evidence to conclude that occupants at the Complex were not exposed to toxic substances. At a minimum, PBS environmental personnel should have responded directly and quickly to address MDNR's concerns and the initial allegations of serious illnesses at the Complex. Our review indicates that, not only did PBS environmental personnel fail to quickly take action and respond to concerns, they did not inform regional GSA management that these concerns were raised.

Recommendations

We recommend that the Regional Administrator, GSA Heartland Region, and the Heartland Regional Commissioner, Public Buildings Service,

1. Build on the actions taken during the current year to establish an environmental management program that proactively protects the occupants at the Complex; and
2. Establish controls to ensure that PBS environmental personnel are knowledgeable of the environmental rules and regulations applicable to the Complex.

Incorrect and Misleading Information, Inadequate File Documentation, and Possible Non-Compliance with CERCLA Reporting Requirements Damage GSA's Credibility

PBS often provided erroneous and/or incomplete information to both the public and our office concerning environmental issues at the Complex. Some of this information was incorrect to the point that it misled requestors as to the environmental work performed at the Complex. This problem has damaged GSA's credibility with both building occupants and the general public. In addition, PBS file documentation dealing with environmental issues at the Complex was incomplete and disorganized and PBS may not have complied with CERCLA requirements to annually report on environmental conditions at the Complex.

⁵ This vulnerability was previously raised by the Office of Inspector General (OIG) in national reviews. For example, the OIG's 2006 Review of the PBS Environment Program Management (A050040/P/4/R06003) contained a series of recommendations to implement a national environmental management system; improve the environmental risk index; and strengthen environmental liability reporting.

Incorrect and Misleading Information

In response to questions regarding the safety of the Complex, PBS environmental personnel informed regional agency management and our office that PBS performs "comprehensive" annual and 5-year safety and health evaluations at the Complex. This information was also provided to the public. However, a review of PBS file documentation indicated that no annual or 5-year comprehensive testing for environmental hazards was ever performed. In fact, environmental hazard testing performed was conducted in response to specific issues raised at the Complex and limited to the areas in which the concerns were raised.

Interviews with PBS environmental personnel revealed that these annual and 5-year surveys generally consisted of visual safety walkthroughs and did not include testing for toxic substances such as TCEs, PCBs, and beryllium. Further, these walkthroughs were not documented in PBS files. The PBS individual who performed these reviews stated that notes were taken during the reviews but were discarded after recording any corrective work needed in a computer spreadsheet. During interviews, PBS environmental personnel confirmed that these walkthroughs did not include testing for toxic substances. As a result, because the specific issue raised was related to toxic substances at the Complex, PBS's response that it performed comprehensive annual and 5-year evaluations was incorrect to the point that it misled people regarding the work performed in these surveys.

In addition, we determined many of PBS's verbal responses to inquiries from our office about various safety and health issues at the Complex were either incorrect and/or unsupported. Although we requested all information related to environmental issues at the Complex, PBS did not provide the January 7, 2005, MDNR letter to our office. We obtained this letter and other associated correspondence directly from MDNR. When confronted about this, PBS environmental personnel took weeks to locate the document and did not present complete information regarding the letter. Further, in response to questions about the letter and other documentation that was not supplied, a PBS industrial hygienist provided information that was later determined to be incorrect.

In providing incorrect and misleading information PBS has seriously compromised GSA's credibility with both the occupants of the Complex and the general public. GSA will need to bridge this credibility gap in order to convince Complex tenants and the public that the site will ever be safe.

Inadequate File Documentation

In accordance with 36 CFR Part 1220.30(a), PBS personnel, ". . . must make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. These records must be designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities." Federal Acquisition Regulation 4.801 provides additional criteria

regarding file documentation. We determined that PBS did not document or maintain files in accordance with applicable criteria. In addition, PBS could not locate some records that we requested.

Not only is proper documentation a requirement but, more importantly, it substantiates actions taken by government personnel. Additionally, PBS's failure to provide appropriate documentation was the subject of our June 24, 2010, Alert Report⁶ which reported that GSA had not properly responded to a Freedom of Information Act request pertaining to health and environmental conditions at the Complex.

Possible Non-Compliance with CERCLA Reporting Requirements

In accordance with CERCLA Section 120(e)(5), "Each department, agency, or instrumentality responsible for compliance with this section shall furnish an annual report to the Congress concerning its progress in implementing the requirements of this section." We identified one instance, December 29, 1988, where GSA filed an annual report on its implementation of the CERCLA requirements for the Complex.

While the requirements of the CERCLA are applicable to the Complex and to GSA, a PBS official questioned whether the annual reporting requirements are applicable to the Complex if there are no hazardous waste operations to report. We did not identify any criteria that excluded filing an annual report for this reason.

Recommendations

We recommend that the Regional Administrator, GSA Heartland Region, and the Heartland Regional Commissioner, Public Buildings Service,

3. Institute controls to ensure that information provided to the public and in response to other inquiries is accurate and that safety and environmental management personnel maintain complete and organized files in order to provide a complete and accurate basis for the information; and
4. In conjunction with GSA's Office of General Counsel, determine whether GSA is required to file an annual CERCLA report with Congress for the Complex and, if applicable, file the appropriate reports.

Conclusion

Our review determined that current testing performed at the Complex has not identified any significant health hazards present in GSA-controlled space. Further, historical ad hoc testing and our review of workers' compensation claims filed by occupants of the

⁶Alert Report, Review of Health and Safety Conditions at the Bannister Federal Complex, Kansas City, Missouri, Assignment Number A100116/P/6/W10001, dated June 24, 2010.

Complex do not indicate any sustained exposure to toxic substances by GSA occupants. However, it is important to note that not all of the test results have been finalized and the health hazard evaluation being conducted by NIOSH has not been completed.

While the analyses that are currently being performed by NIOSH and EPA will assist in addressing environmental issues at the Complex, PBS should build on these steps to establish a comprehensive environmental management program. An effective environmental management program would also help to strengthen GSA's credibility regarding conditions at the Complex.

Internal Controls

Our evaluation of internal controls in the Heartland Region PBS was limited to those areas necessary to accomplish our objective. The internal controls were deficient to the extent identified in this report.

Management Comments

Regional Management disputed some aspects of the report but agreed with the recommendations. Management's response is included in its entirety as Appendix C.

OIG's Response

We considered Regional Management's comments in preparing the final report. Regional Management, in its response, stated that the report highlighted many lessons learned and improvements that it has already acted upon. However, it mistakenly casts our position as believing that PBS should have conducted more health-related environmental tests. This misconception misses one of the main points of the review: specifically, the problematic actions by the region indicate a lax environmental management program. A strong environmental management program would have taken into consideration the issues at the site, provided a set of actions for dealing with them, supported the decision-making process, and assisted in managing the public's environmental concerns.

APPENDIXES

REVIEW OF HEALTH AND SAFETY CONDITIONS
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APPENDIX A

Objective, Scope, and Methodology

The objective of our review was to determine whether General Services Administration's (GSA's) Public Buildings Service (PBS) took appropriate steps to protect the health and safety of the occupants, including the child care facility, under its control at the Complex.

In order to accomplish our objective, we (1) reviewed and evaluated documentation and files maintained by PBS environmental personnel; (2) examined relevant laws, Executive Orders, regulations, and GSA orders and directives; (3) discussed environmental management with regional and central office PBS personnel; (4) met with the Missouri Department of Natural Resources (MDNR) personnel in Jefferson City, Missouri, where we obtained and reviewed MDNR documentation related to the Complex; (5) interviewed U.S. Environmental Protection Agency (EPA) personnel regarding its roles and responsibilities at the Complex; (6) met with and obtained documentation from PBS's environmental consultant; and (7) obtained and evaluated documentation from the U.S. Department of Labor concerning workers' compensation claims filed by employees at the Complex.

It is important to note that our review covered environmental aspects at the Complex during three different time periods: (1) testing that was performed in 2010; (2) documentation and test results from the 10-year period, 1999 through 2009; and (3) information and documentation prior to 1999. This was necessary in order to properly evaluate what actions GSA was currently taking in contrast to what had previously been done at the Complex. Further, this approach was required because of technological improvements in environmental and health testing over the years as well as the fact that the specific factors/criteria as to what constitutes a health risk (e.g., groundwater contamination by trichloroethylene) have changed. For these reasons, and because of the difficulty in identifying older, relevant documentation, our review concentrated on the time period 1999 through 2010.

Additionally, at our request, both the Department of Energy (DOE) Office of Inspector General (OIG) and EPA OIG are currently conducting separate reviews related to the Complex. The DOE OIG's audit objective is to determine whether the Kansas City Plant had controls in place to protect the environment, and the health and safety of its employees. The EPA OIG's audit objectives are to review EPA Region 7's⁷ actions at the site, specifically focusing on evaluating the various testing methods and results related to Buildings 50 and 52.

⁷ EPA Region 7 has oversight responsibility for the GSA-controlled portion of the Complex.

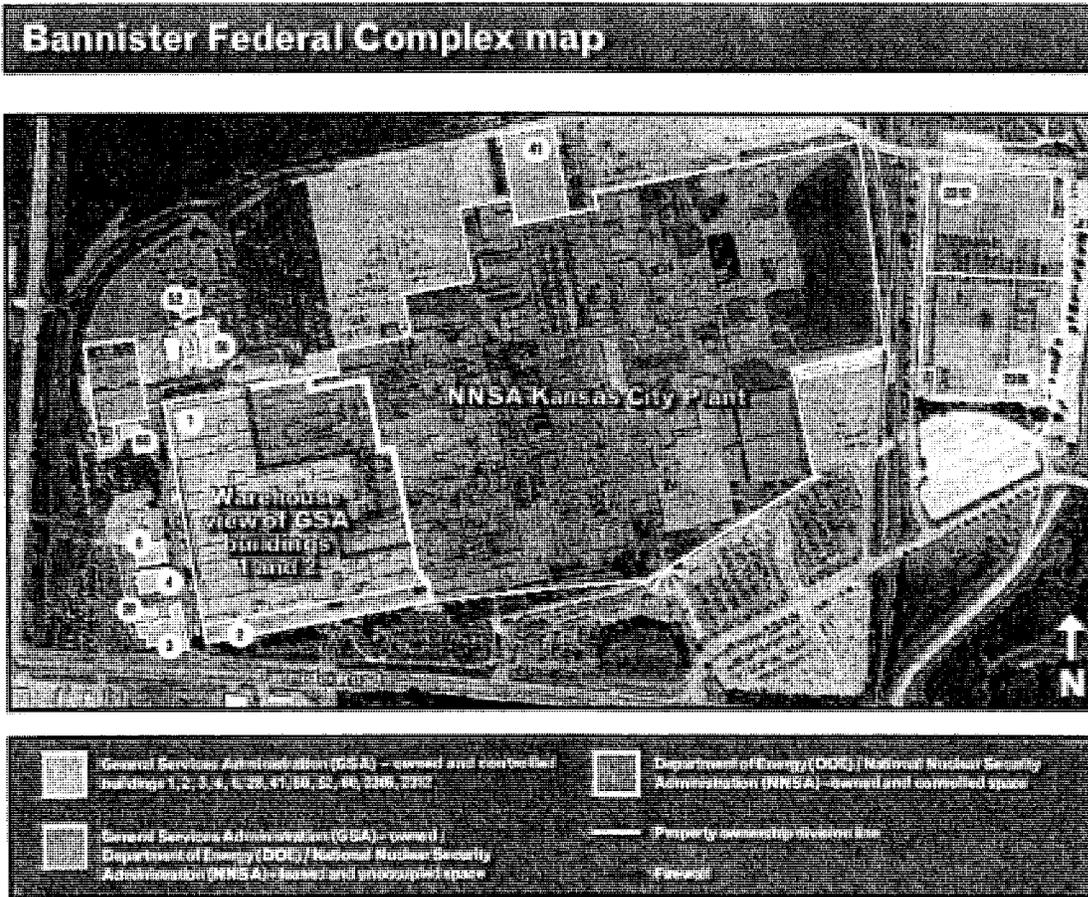
Objective, Scope, and Methodology (Cont.)

Building 50 houses PBS's field office operation for the Complex and is adjacent to Building 52, which is the child care facility located at the Complex. Further, at the request of PBS and the Regional Administrator for GSA's Heartland Region, the Center for Disease Control's National Institute for Occupational Safety and Health is conducting a health hazard evaluation for the Complex. This evaluation is an assessment to establish whether occupants have been exposed to hazardous materials or harmful conditions and whether these exposures affect an occupant's health. The results of these reviews will be addressed by the specific agencies responsible for conducting them and, as such, are not included in the scope of our review.

The review was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objective.

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APPENDIX B
Map of the Bannister Site, Current Usage, and Historical Background



The Bannister Federal Complex (Complex) consists of 310 acres located on Bannister Road in the southern part of Kansas City, Missouri.

The Department of Energy's (DOE's) National Nuclear Security Administration (NNSA) currently contracts with Honeywell Federal Manufacturing & Technologies, LLC (Honeywell FM&T) to produce non-nuclear mechanical, electronic, and engineered material components for U.S. national defense systems at the site. DOE controls over 30 buildings totaling over three million square feet of space. Currently there are approximately 2,550 employees in the DOE-controlled portion of the Complex.

Map of the Bannister Site, Current Usage, and Historical Background
(Cont.)

GSA controls the remaining two million square feet in 12 buildings. The GSA-controlled portion is primarily used as office and storage space for numerous government agencies including GSA, the Department of Commerce, the Department of Agriculture, the Department of Veterans Affairs, and the U.S. Marine Corps. In 1989, GSA built a child care facility on the Complex. There are currently approximately 1,400 government employees in the GSA-controlled portion of the Complex and 75 children enrolled in the child care facility.

Historical Background

In 1942, the Complex was developed as a manufacturing plant to build aircraft engines for the U.S. Navy. In 1949, the Bendix Corporation commenced a manufacturing operation for the non-nuclear components of nuclear weapons for the Atomic Energy Commission (now NNSA). NNSA currently contracts with Honeywell FM&T for the manufacturing operation at the Complex.

In the past, chemicals that are currently known to be harmful to humans and the environment were used at the Complex. Portions of the complex have been used for waste disposal and remediation. Upon identifying hazards, various monitoring and remediation efforts have been undertaken at the Complex. Currently, the major contaminants identified at the Complex are trichloroethylene and polychlorinated biphenyls. Over 200 groundwater wells located throughout the Complex monitor the presence of these contaminants which are not in the process of being remediated.

The entire site has undergone many changes and tens of thousands of people have worked at the site over the last 60 years. In the 1990s, for example, the NNSA employed over 6,000 workers and over 4,000 federal employees were housed in the Complex.

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APPENDIX C
Management Response



GSA Heartland Region, Kansas City

John F. Walsh
Regional Inspector General for Auditing
Heartland Region Field Audit Office (JA-6)

Dear Mr. Walsh,

We value the mission of the Inspector General (IG) and have taken many steps to enhance our environmental program since January 2010, many in the areas the audit suggests. The IG's audit report highlights many lessons learned and administrative improvements that we have already acted on. It is important to note that while still in progress, extensive testing to date has not indicated that health risks exist for occupants and visitors of the Complex. Additionally, the National Institute for Occupational Safety and Health (NIOSH), which is completing its Health Hazard Evaluation, has not determined the need for any additional testing of the complex. Two sections of the audit report appropriately focus on the guidelines and regulations that Public Buildings Service (PBS) has potentially violated with its environmental documentation of the Bannister Federal Complex. The report does not reference if PBS violated environmental regulations or industry best practices. It also does not include analysis from environmental experts such as NIOSH or U.S. Environmental Protection Agency (EPA).

The first pertinent discussion relates to PBS' potential violation of General Services Administration (GSA) document retention policy. The second discussion focuses on PBS' potential violation of written CERCLA reporting requirements. The remainder of the report is based on the underlying belief of the IG that PBS should have performed more health-related environmental tests. To date, this belief is not supported by the expert investigative team from NIOSH. And at no point throughout the documents does it state that PBS violated federal, state or local environmental regulations.

1) Use of the word: misleading

Mislead is synonymous with to deceive. At no point did PBS seek to intentionally deceive the public or any government officials. It is one of several superlative statements in the report that is meant to evoke an emotional reaction from its reader and is without supporting evidence that PBS personnel sought to intentionally deceive the public or employees.

U.S. General Services Administration
1500 E. Bannister Road
Kansas City, MO 64131

Management Response (Cont.)

The report also includes emotional phrases such as "significant health concerns" (suggesting that non-significant health concerns exists), "we believe" (instead of: we find, we conclude), "we are troubled" (a direct emotional response), "they were even unaware" ('even' is an emotional descriptor), "not subjected to sustained toxic exposure" (suggesting that un-sustained toxic exposure has occurred), "will ever be safe (discussed below)", etc.

2) Statement: "Without a comprehensive historical perspective, there is insufficient evidence to conclude that occupants at the Complex were not exposed to hazardous toxins."

--Page 6, paragraph 6

This conclusion, or any similar conclusion, should be left to the specialized doctors, scientists and experts of NIOSH. Such determinations will be included in their Health Hazard Evaluation.

3) Statement: "convince Complex tenants and the public that the site will ever be safe"

--Page 8, paragraph 3

This statement is another example of the report's superlative tone and assumes the Complex is not currently safe. To date, there has been no indication from the *health and environmental experts* at NIOSH or EPA that the facility is unsafe. As stated earlier in the IG report, "Testing has revealed no significant health hazards."

4) Statement: "However, PBS did not always take appropriate steps to protect the health and safety of the occupants at the Complex when presented with evidence of potential hazards."

--Page 2, paragraph 3

The phrasing "when presented with evidence of potential hazards," it is a direct contradiction to this statement on page four, first paragraph: "Prior to 2010, PBS addressed specific issues when raised by tenants but did not have a strong environmental management program for the Complex" and this statement on page four, paragraph two: "When problems were identified, the documentation indicates that PBS took actions to address the issues."

IG Recommendations: PBS Actions to Date

We recommend that the Regional Administrator, GSA Heartland Region, and the Heartland Regional Commissioner, Public Buildings Service, Build on the actions taken during the current year to establish an environmental management program that proactively protects the occupants at the Complex; and Since early 2010, PBS has worked closely with the EPA to develop a comprehensive testing program of GSA-managed space at the Complex. Testing includes beryllium and uranium dust and air sampling, air sampling for PCBs and VOCs, an additional sub-slab ventilation system installation, and soil and groundwater testing.

Management Response (Cont.)

GSA has also established an inter-agency leadership council, comprised of senior leaders from EPA, Missouri Department of Natural Resources, National Nuclear Security Administration and GSA to discuss environmental issues and the repurposing of the Complex.

GSA and EPA have also established a community advisory panel to provide input on environmental issues and repurposing, and to serve as a conduit for public outreach.

GSA also requested a Health Hazard Evaluation of GSA-managed space by NIOSH. At the evaluation's conclusion, GSA will actively address any suggestions provided by NIOSH.

Establish controls to ensure that PBS environmental personnel are knowledgeable of the environmental rules and regulations applicable to the Complex. PBS is currently developing an action plan that outlines clear responsibilities within the safety and environmental group. It includes the review and update of individual development plans to ensure adequate knowledge and education in the respective program areas.

Institute controls to ensure that information provided to the public and in response to other inquiries is accurate and that safety and environmental management personnel maintain complete and organized files in order to provide a complete and accurate basis for the information; and Since March 2010, all information released has been extensively vetted, and is required to have supporting documentation prior to release. PBS is currently organizing and cataloging all historical tests conducted within GSA-managed space.

PBS also revised the electronic record storage process to ensure information is easily accessible, complete and without duplication. In conjunction with GSA's Office of General Counsel, determine whether GSA is required to file an annual CERCLA report with Congress for the Complex and, if applicable, file the appropriate reports.

The safety and environmental team will meet with regional and Central Office counsel to verify GSA's responsibilities under CERCLA. The EPA environmental work plan being executed will further define GSA's CERCLA responsibilities.

Sincerely,



Mary Ruwwe
Regional Commissioner

REVIEW OF HEALTH AND SAFETY CONDITIONS
AT THE BANNISTER FEDERAL COMPLEX
KANSAS CITY, MISSOURI
REPORT NUMBER A100116/P/6/R11001

APPENDIX D
Report Distribution

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ENCLOSURE B

HAZARD REPORT AND ASSESSMENT
REGION 6 ASBESTOS MANAGEMENT/ASBESTOS
MEDICAL SURVEILLANCE PROGRAMS

For

**GSA Region 6
Public Building Service
1500 East Bannister Road
Kansas City, MO
November 4, 2013**

Performed by:



Jeffry Cushing MS
Gary Adams MS, IH, CSP
Heartland Safety & Environmental Team
1500 East Bannister Road (6PMX)
Kansas City, Mo 64131

Executive Summary

A formal investigation of the regional asbestos management program, and asbestos medical surveillance program was opened on November 4, 2013. The investigation was a result of an inquiry from central office to answer an Office of Special Counsel investigation and four inquiries from current GSA associates (former GSA maintenance personnel, two regional and two from the Kansas City South Field Office), as to why they have not been receiving annual medical exams due to asbestos exposure at the Bannister Federal Complex, 1500 East Bannister Road, Kansas City, Missouri 64131. The investigation was conducted from November 4 through December 26, 2013, by Jeffrey Cushing and Gary Adams, Region 6 Safety and Environmental Team.

The investigation started out informally to answer questions concerning the asbestos medical surveillance program that has been in place since the year 2000, but quickly turned into a comprehensive review of the entire Region 6 Asbestos Management and Asbestos Medical Surveillance Programs. The following significant issues were identified:

- Potential contractor and GSA employee exposure to airborne asbestos fibers, and possible inadvertent tenant exposure to airborne asbestos fibers in some GSA Region 6 facilities.
- Non-compliance with OSHA assessment, labeling, posting, control, employee protection, and employee training requirements.
- Non-compliance with the 2008 GSA Asbestos Policy inventory, assessment, control, employee protection, and employee training requirements.

The scope and significance of these issues apply to all the facilities in the region that contain asbestos materials.

Background

Medical Surveillance

Prior to the year 2000, GSA Region 6 employed tradesmen ("green shirts") to perform the building operations and maintenance that is currently being performed by a contractor. The work performed by the "green shirt" employees exposed them to asbestos and required them to be on a formal asbestos medical surveillance program that complied with OSHA regulations. In 2000, GSA Region 6 eliminated the "green shirt" positions and absorbed many of the former "green shirt" employees into the organization, and hired contractors to perform the building operations and maintenance tasks for GSA. Since GSA employees were no longer performing the work that exposed them to asbestos, a formal asbestos medical surveillance program was not required by OSHA regulations however, a decision was made to informally keep it.

The current GSA Region 6 version of the asbestos medical surveillance program has been in place for approximately 13 years and appears to be the result of a decision made between former Region 6 Asbestos Program Managers, Region 6 PBS Management, and Region 6 Human Resources Management. Apparently, the managers at the time decided it was a good idea to continue to offer asbestos medical exams on a voluntary basis to any GSA employees who were previously performing duties that had exposed them to asbestos, as long as the safety and environmental budget could support it. No formal GSA Region 6 policies could be found to support the existence of this program. However, a 2012 Memo For Record from Kevin Santee, former safety and environmental team member, team leader and branch chief, indicates this is the case. In addition, two informal documents were discovered in the electronic files maintained by the former asbestos program manager, Dave Hartshorn, that supports this program, but has significant flaws and inconsistencies. The GSA policy governing medical surveillance briefly mentions medical surveillance, but it is woefully inadequate. See Attachments 1-4.

Note: The search for formal documentation included a search of archived files on the regional "K" drive, and inquiries at the Region 6 Inspector General's Office, the Office of the Region 6 Counsel, GSA Region 6 Human Resources Labor Relations, the American Federation of Government Employees Local Union Office, and previous Region 6 Safety and Environmental Team members.

Asbestos Program Management

At least since 2007, GSA Region 6 has been using a generic building asbestos management plan developed by the former Region 6 Asbestos Program Manager (contracted out and written by Occu-Tec) based on the Asbestos Hazard Emergency Response Act (AHERA) EPA Guidelines for Schools to manage asbestos in place, prevent employees and tenants from being exposed to asbestos, and to safely remove asbestos when necessary. Unbeknown to the current asbestos program manager who inherited responsibility for the asbestos program in January 2013, the GSA Central Office issued a formal asbestos policy in 2008 that, if followed from the beginning, would have done a much better job of asbestos management and allowed the region to be in compliance with OSHA regulations. The building asbestos management plans put in place by the former asbestos program do not conform to the 2008 GSA PBS Asbestos Policy, omits OSHA labeling and posting requirements, and does not address GSA employee and custodial service duties or responsibilities. The management plans also leave out specific OSHA housekeeping and training requirements.

Although the asbestos management and medical surveillance program responsibilities changed hands in January, 2013, the new program managers were informed all actions for the fiscal year 2013 were complete, and no action for either program was required until the new fiscal year by the outgoing program manager, current safety and environmental team leader, and the current safety and environmental branch chief.

Findings

1. The region has not complied with the OSHA termination of employment medical examination requirements: GSA Region 6 employees who were under the asbestos medical surveillance program prior to the year 2000 were not provided medical examinations within 30 days before or after the date of their termination as required by 29 CFR 1910.1001(l)(4)(i) and (ii).

2. The informal medical surveillance program for the region is flawed and inconsistent: It appears the program was first initiated as a good faith gesture to continue to provide former "Green Shirt" employees who performed duties that exposed them to asbestos with medical exams if they so desired. However, records show it also included safety and environmental team members from 2001-2007 as well and there is not a formal policy or procedures to determine who should have been offered the medical exam from year-to-year, and which employees had priority if the budget could not support providing exams for everyone on the list. In addition, the list was expanded from 2010-2012 to include regional Design and Construction and Facilities Divisions employees for unknown reasons. These exams are still being offered and there still is not a formal policy in place.

According to two documents found in an electronic file maintained by the former asbestos program manager, both dated May 6, 2009, one titled "Medical Exams Procedures" and the other titled "Medical Surveillance Exam Criteria," the medical surveillance exam process involves providing a list of employees for a given year to Federal Occupational Health who then is required to notify the employees on the list that may schedule their exam. There are not checks and balances to this system, and verification that all the employees on the list were/are actually offered an exam only exists for a couple of the thirteen years this program has been in existence. Several employees stated they were removed from the list and never reinstated, yet archived files indicate they were on the list provided to Federal Occupational Health. One employee that was taken off the list, was reinstated by virtue of his complaint alone.

The most troubling part of these two documents are the statements that imply regional employees were/are being exposed to asbestos and these exams are actually required. Taking these two documents at face value, the region has knowingly been exposing GSA employees to asbestos without a proper medical surveillance program in place, or a proper asbestos safety program that includes proper hazard assessments, personal protective equipment, and the monitoring required to meet the OSHA regulations to protect the employees being exposed.

3. The region has failed to meet the OSHA building and facility owner responsibility to determine the presence, location, and quantity of asbestos containing materials and/or presumed asbestos containing materials as required by 29 CFR 1910.1001(j)(2)(i): Although the region has had a recurring survey process in place, it was discovered in Spring 2012 by the regional industrial hygienist, the surveys at the following buildings were inaccurate:

- U.S. Courthouse and Federal Building in Hannibal, Missouri - asbestos containing materials were listed where none were actually present and more asbestos containing materials was listed than were actually present.
- Building 100, Federal Records Center in Overland, Missouri - more asbestos containing materials were listed than were actually present.

When confronted, the contractor (Occu-Tec) who conducted the surveys was unable to reconcile the deficiencies. Upon reviewing the survey contract, the regional industrial hygienist discovered there was not a QA/QC verification step to ensure the surveys were accurate, and the former asbestos program manager only provided a cursory review of the survey report when it was submitted for payment. In addition, the surveys do not adequately identify those areas that may contain asbestos. This renders the current asbestos survey data extremely suspect for completeness and accuracy. The regional industrial hygienist identified these issues to the former asbestos program manager, current safety and environmental team leader, and current branch chief on November 20, 2012, and again on May 6, 2013, but no action was taken. The same contractor has recently been selected and retained on a Five-year Blanket Purchase Agreement by the contracting group. The region stopped the survey program in 2013 due to budget constraints, but is planning to bring it back in 2014 to meet GSA Central Office requirements.

This issue surfaced again on August 2, at the Federal Building in Pittsburg, Kansas. During an emergency roof leak repair and water intrusion project, asbestos pipe fittings that were not reported on the facility asbestos inventory were discovered above the ceiling of the men's restroom after the plaster had been removed. Fortunately, the Kansas Field Office Project Manager recognized one half of a wet mud pipe fitting laying on the floor in the construction area that had the potential to be asbestos and immediately notified the regional asbestos manager. The regional asbestos manager instructed the Project Manager to put the wet fitting portion into a bag and seal before further damage to it or further exposure could occur. The regional asbestos manager retrieved the bag with the fitting and took it to a laboratory to find out if the material was asbestos, it was. Although the hard plaster ceiling in the restrooms did not provide access from inside the restrooms, the areas above the ceilings can be viewed from the boiler room. An experienced inspector would have conducted the inspection viewing the space above the ceiling from the boiler room to observe the piping and pipe fittings and identified the fittings as presumed asbestos containing material in the survey.

In November, 2013, several Kansas City South field office employees stated the asbestos at the Bannister Federal Complex was being mismanaged. A spot check conducted by the region safety specialist and industrial hygienist revealed asbestos containing materials and/or presumed asbestos containing materials in multiple locations not listed on the facility survey or labeled as required by OSHA. See Figures 1-7.

This issue was further validated on December 11, 2013, in the Neil Smith Federal Building in Des Moines, Iowa, when the building manager, on-site manager for the O&M contractor, and the on-site asbestos worker for the O&M contractor showed an entire wall of asbestos that is not

listed on the survey for that facility, or labeled as required by OSHA. A check of archived files revealed the asbestos was listed on a previous survey. See Figure 8.

4. The region has not complied with the OSHA building and facility owner labeling and posting requirements: Asbestos containing materials and/or areas containing asbestos materials have not been properly labeled or posted as required by 29 CFR 1910.1001(j)(3). See Figures 1-8.

5. The region has not complied with OSHA employee information and training requirements: GSA building managers, facilities operations specialist, and regional facilities maintenance personnel responsibilities include asbestos housekeeping duties, but have not received initial and annual asbestos awareness training as required by 29 CFR 1910.1001(j)(7)(iv).

In addition, the region has not complied with the training requirements outlined in the 2008 GSA PBS Asbestos Policy. GSA building managers, facilities operations specialist, regional and field office project managers, regional facilities maintenance, and safety and environmental personnel have not received the asbestos inspector, asbestos project designer, and asbestos supervisor training in accordance with Section XIV Training.

6. The region has not complied with the 2008 GSA PBS Asbestos Policy (Attachment 5) renovation and demolition pre-assessment requirements, and does not have a regional policy that would meet the GSA policy requirements:

- The policy requires "... an assessment must be performed to determine the potential to disturb such asbestos containing materials and sufficient controls must be designed into the project. The pre-alteration assessment must be conducted for all projects regardless of the age of the facility and must address both accessible and inaccessible asbestos containing materials. Destructive sampling must be conducted where necessary to address inaccessible asbestos containing materials. Firms performing such assessments must use personnel accredited as both "asbestos inspector" and "asbestos project designer." PBS personnel performing such assessments must meet the training requirements of Section XIV.

Explanatory note: Asbestos surveys are useful in the preparation of pre-alteration assessments but cannot substitute for such assessments. Asbestos surveys typically do not include destructive sampling and are not project specific."

Although the Region 6 asbestos manager who handles the majority of the asbestos projects has a vast amount of education, training and experience in the asbestos arena, he has not met the initial and recurring training required by this policy. In addition, projects in the region have typically not included pre-assessment surveys, especially destructive sampling, for either large regional or smaller field office projects. Questionable asbestos inventories for each facility has been used almost exclusively in most of the construction projects performed in the region since 2007. A prominent example of this can be found in Figure 9, and a typical example of a field office repair

can be found in Figures 2, 6, and 7. Because the region has not followed GSA asbestos policy protocols, regional employees and contractor personnel may have inadvertently been exposed to asbestos in violation of OSHA 29 CFR 1910.1001 regulations. In this case, how much, how long, and how is almost impossible to determine however, this report includes four examples.

- The policy requires “The potential impact of asbestos containing materials must be considered and included in the cost of Reimbursable Work Authorizations and programed into proposed projects.” Typically, asbestos abatement has not been considered in regional/field office projects.
- The policy requires “Only designers qualified in accordance with the EPA Asbestos Model Accreditation Plan may design asbestos projects. Project designers must be licensed in the State in which the project is located.” Typically, this requirement is only fulfilled on large regional projects when asbestos is discovered after the project has already started.
- The policy requires “Property managers must establish a work permit system to disclose the presense, location, and condition of asbestos containing materials to everyone intending to perform work that may disturb the asbestos containing material and to regulate such work. Tenant agencies must also obtain a work permit from PBS before performing any such work.” Region 6 does not use this work permit process.
- Region 6 field office building managers do not issue work permits, and the majority have erroneously shifted the asbestos management responsibility over to the O&M contractor even though this responsibility is not part of their contract. This, coupled with the inaccurate survey data provided to the O&M contractor, has created the situation where contractor employees and the GSA employees verifying their work are potentially being exposed to asbestos. See Figure 2, 6, 7, and 8. There is a small possibility that tenant employees may have been exposed as well. As stated before, there is no way to verify this except through direct observation when the violation occurs, and sampling can only be used to determine if asbestos containing material is present and exposure is occuring at the time of the sampling.
- The region has not complied with all the 2008 GSA PBS Asbestos Policy survey requirements. Annual visual inspections of asbestos containing materials in facility occupied space and common areas have typically not been performed.

Figures

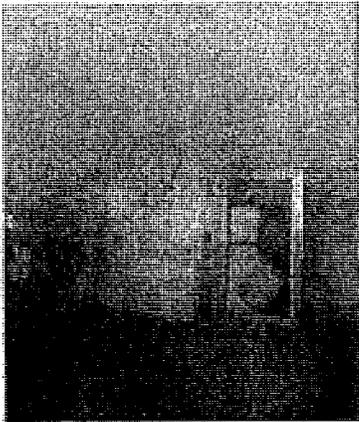


Figure 1

Location: Banister Complex Building 1 – Mail Level Fan Room 2B

Description: Asbestos containing material (ACM (Transite[®] partial panels) has not been properly disposed of. These panels have not been used in over 10 years. The ACM has not been properly labeled as required by OSHA regulations, and the entrance to the room has not been properly posted as required. These panels are being stored in an inactive air handling room. This material is not listed on the current facility asbestos inventory.

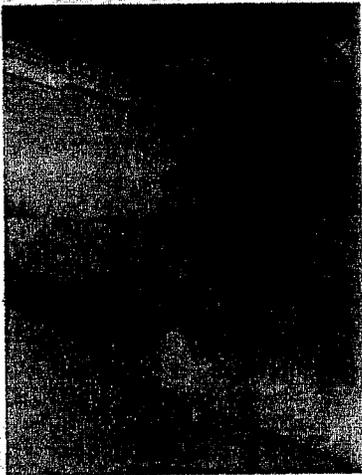


Figure 2

Location: Banister Complex Building 1 - Mall level custodial contractor's storage area and laundry room.

Description: This material is presumed asbestos containing material (PACM) according to OSHA regulations. The PACM (thermal system insulation) is in poor condition and not being properly maintained. The PACM has not been properly labeled as required by OSHA regulations, and the entrance to the room has not been properly posted as required. This Material is not listed on the current facility asbestos inventory or archived inventory.

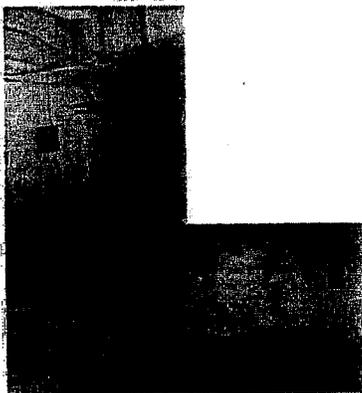


Figure 3

Location: Banister Complex Building 1 – Mall Level West Hallway – Fire Exit

Description: ACM (thermal system insulation) is in poor condition and not being properly maintained. The ACM has not been properly labeled as required by OSHA regulations. This ACM is in a frequently used hallway. This ACM is not listed in the current facility asbestos inventory, but is listed in the archived inventory.

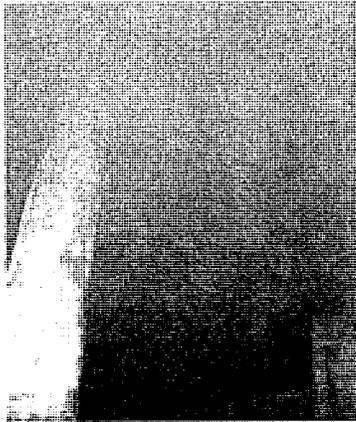


Figure 4

Location: Banister Complex Building 1 - Pit Area in Mechanical Room

Description: The ACM has not been properly labeled as required by OSHA regulations, and the entrance to the room has not been properly posted as required. The material is not listed on the current facility asbestos survey but is listed in the archived inventory.

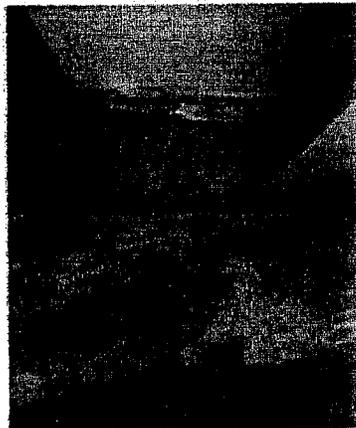


Figure 5

Location: Banister Complex Building 1 – Mall Level Fan Room 2B

Description: This material is presumed asbestos containing material (PACM) according to OSHA regulations. The PACM (thermal system insulation) is in poor condition and not being properly maintained. The PACM has not been properly labeled as required by OSHA regulations, and the entrance to the room has not been properly posted as required. This material is not listed on the current facility asbestos inventory but appears to be listed on the archived inventory.

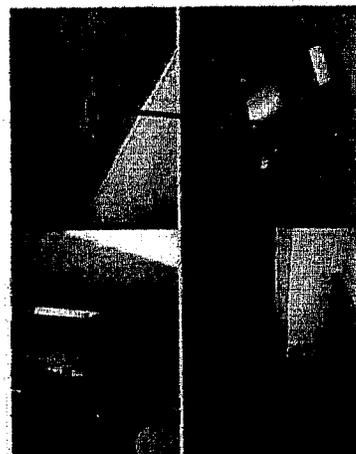


Figure 6

Location: Banister Complex Building 2 – BOE 26.5

Description: According to a Kansas City South Field Office Facilities Operations Specialist, the leaking pipe was recently repaired. The pipe was wrapped in ACM (thermal system insulation). The ACM has not been properly labeled as required by OSHA regulations, and the entrance to the room has not been properly posted as required. This material is listed on the current facility asbestos inventory. The repair area was not properly cleaned up according to OSHA regulations and PACM was left laying on the floor and the dehumidifier.

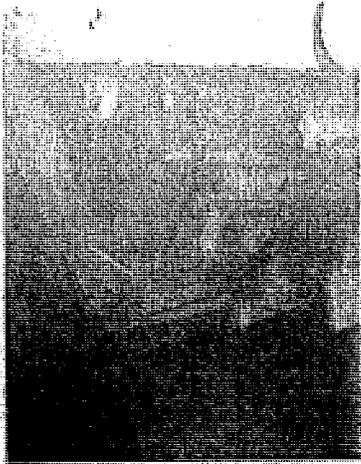


Figure 7

Location: Barnister Complex Building 2 - Stairway

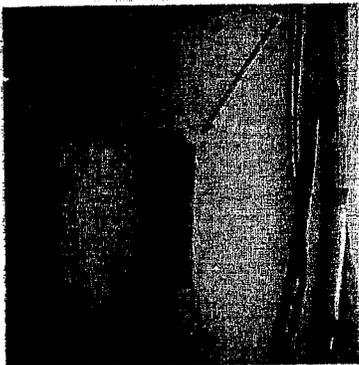
Description: This material is presumed asbestos containing material (PACM) according to OSHA regulations. The PACM (thermal system insulation) is in poor condition and not being properly maintained. The PACM has not been properly labeled as required by OSHA regulations, and the entrance to this area has not been properly posted as required. This material is not listed on the current facility asbestos inventory or archived inventory. The repair area was not properly cleaned up according to OSHA requirements and PACM was left laying on the floor.



Figure 8

Location: Neil Smith Federal Building - Penthouse Mechanical Room

Description: Approximately 8900 square feet of ACM is not listed on the current facility asbestos inventory, but is listed in the archived inventory. The ACM has not been properly labeled as required by OSHA regulations, and the entrance to the room has not been properly posted as required.



According to the Facility Operations Specialist, the asbestos material was disturbed by the tenant installing radio equipment. It is not known if the tenant knew the mounting surface contained asbestos or not because they did not communicate with Facility Operations Specialist prior to installing the equipment.

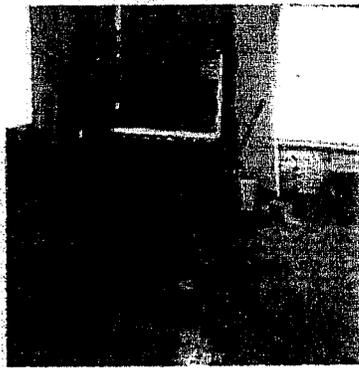
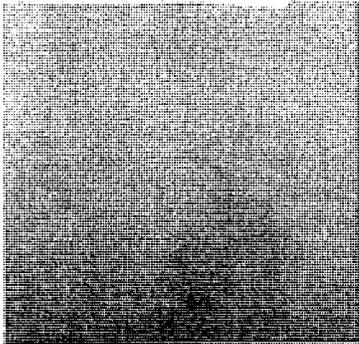


Figure 9

Location: RAY Federal Building -Tower

Description: Asbestos floor tile was being pulverized by contractors who were moving pallets of concrete mortar over it during the RAY ARRA Envelope Improvement Project. The issue was discovered on March 3, 2011, during a regional safety investigation into an unrelated electrical shock issue plaguing construction workers performing tuck pointing on the tower. Work was halted and the regional industrial hygienist was dispatched to perform sampling to ensure the entire building was not contaminated. The project contract was modified, and the asbestos floor tile was abated before construction work was allowed to continue. Swipe tests and air monitoring confirmed the building tenants on the floors below were not exposed to asbestos. However, the pulverized material present in the tower means there was a significant possibility that anyone who visited the tower was exposed. Had the GSA PBS Asbestos Policy been followed, the asbestos would have been accounted for and this would not have been an issue. The asbestos floor tile was on the facility asbestos inventory at the time.

Conclusions/Recommendations

1. The 2008 GSA PBS Asbestos Policy is well written and if followed, the region would have been in compliance with OSHA and EPA requirements. The draft regional safety program has incorporated this policy but has not been implemented yet. The GSA PBS Asbestos Policy should be implemented immediately until the draft GSA Region 6 Safety Program is endorsed and executed.
2. There are significant indications that GSA Region 6 has exposed some or all PBS regional and field office facility management and contractor employees in facilities where asbestos containing materials/presumed asbestos containing materials are present by virtue of the negligent manner in which the region has managed the asbestos program over the past 10-15 years. It would be extremely difficult, expensive, and time consuming to determine how many employees were exposed to asbestos and to what extent they have been exposed. It is also possible, but unlikely, tenant employees may have been exposed as well. Due diligence requires that GSA Region 6 draft a letter explaining the situation and notify employees and contractors that they may have been exposed to asbestos. In addition, an offer should be extended to provide an asbestos medical examination now, and again when the employee terminates their employment with GSA, to those GSA employees who want it.

According to OSHA, "There is no "safe" level of asbestos exposure for any type of asbestos fiber. Asbestos exposures as short in duration as a few days have caused mesothelioma in humans." See Attachment 6. This letter will provide the necessary documentation for employees to make a claim should they contract an asbestos related illness due to their exposure while working for GSA. The decision to include past GSA regional, contractor, and tenant employees should also be addressed.

3. Some or all of the current facility asbestos surveys are inaccurate. Every Region 6 facility containing asbestos and/or presumed asbestos containing material should be resurveyed. A QA/QC verification (preferably by a third party inspector) should be incorporated to ensure survey accuracy. The surveys should incorporate OSHA labeling and posting requirements

4. The current regional medical surveillance program should be immediately terminated. A new regional policy that incorporates current hazard assessments (required by OSHA regulation 29 CFR 1910.132) to determine employee exposure to asbestos, hazardous materials/chemicals, noise, PCB's and lead that would put them in an OSHA required medical surveillance program should be developed and implemented as soon as possible.

Corrected Copy: Several typos (misspellings, etc.) were discovered in the original copy and corrected in the copy. This copy is Dated January

ENCLOSURE C



Office of Audits
Office of Inspector General
U.S. General Services Administration

PBS's Identification and Management of Environmental Risks Need Improvement

Report Number A130131/P/R/R15003
March 20, 2015



Office of Audits
Office of Inspector General
U.S. General Services Administration

REPORT ABSTRACT

OBJECTIVE

The objective of our audit was to determine whether or not the Public Buildings Service (PBS) has the appropriate procedures in place to identify, quantify, and manage environmental contamination in accordance with government orders, laws, and PBS guidance. If not, determine whether PBS facilities, tenants, and/or the surrounding environment are at risk.

Program Audit Office
(JA-R)
1800 F Street, NW
Room 5216
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PBS's Identification and Management of Environmental Risks
Need Improvement
A130131/P/R/R15003
March 20, 2015

WHAT WE FOUND

We identified the following during our audit:

- Finding 1 – PBS Central Office currently does not have a system in place to effectively monitor environmental management risks.
- Finding 2 – PBS has not conducted environmental compliance audits on its entire owned building inventory, and lacks policy and guidance for the audits.
- Finding 3 – PBS does not have consistent environmental management practices across PBS regional offices.
- Finding 4 – Environmental management responsibility in tenant space is unclear.

WHAT WE RECOMMEND

Based on our audit findings we recommend that the PBS Commissioner:

1. Develop a system or framework to collect environmental risk data for PBS buildings and facilities to enable the Environmental Division and regional management to manage and report on environmental risks and liabilities.
2. Ensure that environmental compliance audits or equivalent surveys are conducted to identify risk factors for each PBS facility and are updated as needed; and establish policies to ensure the environmental compliance audits or surveys are consistent across the regions and findings are addressed.
3. Establish and enforce consistent environmental management practices across the regions.
4. Incorporate environmental management responsibilities into tenant occupancy agreements, particularly in cases where the tenant's activities pose a greater risk to the environment.

MANAGEMENT COMMENTS

The PBS Commissioner concurred with our findings and recommendations. Management's written comments to the draft report are included in their entirety as **Appendix B**.



**Office of Audits
Office of Inspector General
U.S. General Services Administration**

DATE: March 20, 2015

TO: Norman Dong
Commissioner, Public Buildings Service (P)

FROM: Susan P. Hall *Susan P. Hall*
Audit Manager, Program Audit Office (JA-R)

SUBJECT: PBS's Identification and Management of Environmental Risks
Need Improvement
Report Number A130131/P/R/R15003

This report presents the results of our audit of PBS's Environmental Management Program. Our findings and recommendations are summarized in the Report Abstract. Instructions regarding the audit resolution process can be found in the email that transmitted this report.

Your written comments to the draft report are included in **Appendix B** of this report.

If you have any questions regarding this report, please contact me or any member of the audit team at the following:

Susan Hall	Audit Manager	susan.hall@gsaig.gov	(202) 501-2073
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Felicia Silver	Auditor	felicia.silver@gsaig.gov	(202) 501-1360
Kyle Plum	Auditor	kyle.plum@gsaig.gov	(202) 273-5004

On behalf of the audit team, I would like to thank you and your staff for your assistance during this audit.

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Introduction

PBS is responsible for the design, construction, operation, maintenance, and disposal of federal government buildings, and owns over 1,500 properties across 11 regions nationwide. PBS's goal is to provide superior workplaces for federal employees across the United States and minimize all damage to the environment from its operations. The Environmental Management Program within PBS's Office of Facilities Management and Services Programs supports GSA in maintaining compliance with environmental laws and regulations, minimizing environmental risk and liability, and promoting cost-effective environmental policies to meet PBS's performance goals.

The Office of Inspector General (OIG) has previously reported on GSA's environmental management programs.¹ These audits found that: PBS's Central Office needs to play a stronger role in implementing environmental program initiatives; improvements to environmental policies and procedures are needed; and written agreements are needed to ensure that tenants clearly understand their responsibilities regarding environmental hazards.

The OIG also reviewed the environmental conditions at the Bannister Federal Complex in Kansas City, Missouri (the Complex).² A United States Senator requested the review after numerous news reports about health concerns of current and former occupants of the Complex. These reports stated that the Complex has a history of known health hazards related to exposure to contaminants including lead and polychlorinated biphenyls (PCBs), and that such exposure may have resulted in illnesses and even the deaths of some of the occupants of the Complex. The OIG found that PBS took substantial steps to protect the health of the Complex's occupants in response to the news reports. However, prior to the news reports, PBS did not have a strong environmental management program for the Complex, despite the building's history of known health hazards. PBS personnel did not have a clear understanding of environmental responsibilities pertaining to the GSA-controlled portion of the Complex and did not adequately document or maintain files related to health and safety conditions at the Complex.

Objective

The objective of our audit was to determine whether or not PBS has the appropriate procedures in place to identify, quantify, and manage environmental contamination in accordance with government orders, laws, and PBS guidance. If not, determine whether PBS facilities, tenants, and/or the surrounding environment are at risk.

See **Appendix A** - Purpose, Scope, and Methodology for additional details.

¹*Audit of PBS' Environmental Management Program*, Report Number A995196/P/H/R00008, dated February 16, 2000; and *Review of the PBS Environment Program Management*, Report Number A050040/P/4/R06003, dated March 28, 2006.

²*Review of Health and Safety Conditions at the Bannister Federal Complex, Kansas City, Missouri*, Report Number A100116/P/6/R11001, dated November 8, 2010.

Results

PBS lacks the procedures to sufficiently identify, quantify, and manage environmental contamination in accordance with government orders, laws, and PBS guidance. As a result, PBS facilities, tenants, and the surrounding environment are potentially at risk. Specifically, PBS lacks a system to effectively monitor environmental management risks nationwide. In addition, PBS has not conducted environmental compliance audits on its entire building inventory, and lacks policy and guidance to ensure audit consistency and effectiveness. Environmental management practices are also inconsistent across the PBS regions due to a lack of centralized policy. Finally, environmental management responsibility in tenant space is unclear, which can lead to undetected risks.

Finding 1 – PBS Central Office currently does not have a system in place to effectively monitor environmental management risks.

The PBS Central Office Environmental Division (Environmental Division) lacks the data necessary to fulfill its responsibility to support GSA in maintaining compliance with environmental laws and regulations, and minimizing environmental risks and liabilities. The Environmental Division does not have a centralized database to capture environmental data, leaving PBS unaware of environmental risks associated with buildings in its inventory. With no centralized database, it is difficult for PBS to identify and address systemic environmental issues across the nation.

PBS previously used the Environmental Risk Index to store environmental information. PBS decommissioned this database in 2012 and has not replaced it. The PBS Inventory Reporting Information System (IRIS) has the capability to store environmental data, such as the results of environmental compliance audits.³ Although more than half of the PBS regions use IRIS for tracking compliance audit findings and recommendations,⁴ it is not user-friendly and does not support consistent sharing of environmental information across the regions.

PBS regions maintain environmental information, but it is not easily accessible to the Environmental Division. Methods for storing and reporting environmental data differ across the regions. Specifically, one region effectively used a cloud storage site to house environmental data. Information in the cloud storage site can be made available to anyone within PBS needing access, including the Environmental Division. Another region used IRIS and noted both its capabilities and limitations. A third region used a regional network drive; however the Environmental Division does not have access to

³ Environmental compliance audits are completed to ensure that federal buildings comply with federal, state, and local environmental laws and regulations. They also serve to develop an awareness of environmental compliance criteria, evaluate the effectiveness of current management systems in place, and improve environmental performance at facilities.

⁴ We conducted detailed fieldwork in the New England, Northeast and Caribbean, and Mid-Atlantic Regions. We also performed a limited survey of environmental management processes in GSA's remaining eight regions.

this information. These various storage and maintenance methods are not conducive to nationwide data management.

Additionally, the environmental data the regions regularly submit to the Environmental Division is limited. The majority of regions mentioned only regularly submitting environmental liabilities data to the Environmental Division.⁵ Other information, including data on environmental risk factors, is typically sent as a result of the Environmental Division's data calls.

We reviewed PBS's management of five environmental risk factors: asbestos, lead, radon, hazardous materials,⁶ and storage tanks. Currently, the Environmental Division regularly collects storage tank and asbestos data from the regions. However, it is not monitoring or collecting data on lead, radon, or hazardous materials.

PBS's efforts to collect data on its storage tank inventory nationwide expanded during our audit. The Environmental Division did not have confidence in the accuracy of the storage tank data initially provided to the audit team. Therefore, PBS recently developed a comprehensive set of data fields for monitoring its storage tank inventory; including identification, operational, maintenance, and training-related data. This data is not yet complete. Tank installation dates, tank ownership, and tank operating statuses are not known for the entire storage tank inventory.⁷ However, the Environmental Division is continually monitoring and validating the storage tank information it receives from the regions.

Having sufficient, readily accessible information on key risk factors would improve the Environmental Division's ability to quickly respond to environmental concerns and minimize environmental risks and liabilities nationwide.

Recommendation 1

We recommend that the PBS Commissioner develop a system or framework to collect environmental risk data for PBS buildings and facilities to enable the Environmental Division and regional management to manage and report on environmental risks and liabilities.

Management Comments

The PBS Commissioner concurred with our finding and recommendation. Management's written comments to the draft report are included in their entirety as **Appendix B**.

⁵ Environmental liabilities data is consolidated by Central Office and reported in GSA's annual financial statement.

⁶ Per PBS's *Hazardous Waste Technical Guide*, hazardous materials include hazardous waste from household cleaners, pesticides, paints, solvents, copier toner, and fluorescent bulbs with PCB ballast. Other PCB-containing items were also considered hazardous materials for the purposes of this audit.

⁷ Storage tank operating statuses include: active, inactive, abandoned in place, removed, closed, and transferred ownership.

Finding 2 – PBS has not conducted environmental compliance audits on its entire owned building inventory, and lacks policy and guidance for the audits.

Compliance audits are an effective tool for identifying environmental risks. However, PBS has not completed environmental compliance audits (compliance audits) on its entire owned building inventory. This leaves some buildings, tenants, and the environment vulnerable to potentially adverse impacts.

We conducted detailed reviews of a sample of 20 PBS owned buildings in three regions. Each building in our sample had a compliance audit conducted by an environmental consulting services contractor or outside agency. In fact, information provided by the sample regions' personnel indicates compliance audits were conducted on all buildings in their inventories. However, a survey of the regions not included in our sample revealed that compliance audits were not conducted consistently across the regions. For example:

- One region conducted compliance audits on nearly its entire building inventory but conducted the audits using regional staff.
- Two regions conducted compliance audits, or some variation of compliance audits, on a portion of its buildings.
- Two regions conducted Safety Environmental Management Surveys⁸ in lieu of compliance audits but had not conducted the surveys on the entire building inventory.
- Two regions conducted Management Analysis Review Systems⁹ reviews in lieu of compliance audits. Both of the regions completed reviews on their entire building inventory.
- One region had not conducted a compliance audit on any of its buildings.

There were differences in the scope and classification of findings in the compliance audits in our sample regions, depending on the contractor completing the audits. For instance, in one region the contractor performing compliance audits defined Category 1 findings as those that posed harm to human health and the environment.¹⁰ In this region, none of the eight compliance audits identified a Category 1 finding. In contrast, the contractor performing compliance audits in the two other sample regions expanded the definition of a Category 1 finding to include those risks that could lead to increased operating costs, administrative penalties, loss of revenue, and disposal and clean-up costs. The 12 compliance audits in the two regions with an expanded Category 1 definition identified 64 Category 1 findings.

The 20 compliance audits found 248 instances of non-compliance with federal, state, and local environmental laws and regulations. Twenty-six percent of these 248

⁸ Safety Environmental Management Surveys have an emphasis on fire safety, and address general employee safety issues.

⁹ Management Analysis Review Systems are broad internal reviews of property management operations, with environmental, health, and safety being only one of 14 different components.

¹⁰ Compliance audit findings are classified by category, with Category 1 being the highest risk.

instances are attributable to the expanded Category 1 findings mentioned above, and present the potential for adverse impacts to human health or the environment. For example, one compliance audit reported the improper maintenance and recordkeeping of a 10,000 gallon underground storage tank. The underground storage tank had a broken cap for the tank's fill port, tank maintenance was lacking, and recordkeeping was non-existent. These findings were not discovered until a compliance audit was conducted, and building management addressed these issues subsequent to the audit. By not conducting compliance audits on all buildings in its inventory, PBS is left vulnerable to risks the audits help to mitigate.

The detailed environmental audits included the following major regulatory and program areas: air quality; water quality; hazard communication plans; hazardous waste management; trash and recycling; underground storage tanks; and PCBs, asbestos, and lead. The compliance audit teams verified testing of these areas and recommended corrective action when necessary.

Although compliance audits provide environmental management benefits to PBS buildings, PBS has no formal policy to ensure compliance audits are conducted consistently and used effectively. The Environmental Division suggests that each PBS owned building have a compliance audit completed every 5 years. However, this is not a formal policy and is often not being met. Regions are not required to conduct the audits nor take corrective action on the findings. Policy regulating the scope, frequency, and follow-up requirements for the audits is non-existent; leading to inconsistencies across the regions.

While it may not be practical for every PBS building to undergo a review as in-depth as a compliance audit, some form of review should be conducted to identify environmental issues and improve environmental performance. The development and distribution of risk-based policy and guidance would enhance the Environmental Division's ability to identify environmental risks. A nationwide policy for compliance audits would also enable the Environmental Division to identify risks that are pervasive across the regions.

Recommendation 2

We recommend that the PBS Commissioner:

- a. Ensure that environmental compliance audits or equivalent surveys are conducted to identify risk factors for each PBS facility and are updated as needed.
- b. Establish policies to ensure the environmental compliance audits or surveys are consistent across the regions and findings are addressed.

Management Comments

The PBS Commissioner concurred with our finding and recommendations. Management's written comments to the draft report are included in their entirety as **Appendix B**.

Finding 3 – PBS does not have consistent environmental management practices across PBS regional offices.

Decentralization of the environmental management function, combined with the lack of oversight and formal policy from the Environmental Division, leads to inconsistent environmental management practices across the regions. Inconsistent practices can leave building tenants and the environment at risk.

PBS has limited formal policies to ensure environmental management practices and testing are consistent across the regions. Our detailed review of 20 PBS owned buildings revealed that environmental testing for contaminants such as lead, radon, and PCBs varied widely across our three sample regions. Monitoring and maintenance of fuel storage tanks and hazardous materials also differed across the regions. For example, one region performed building-wide radon tests while another region performed testing only in the childcare centers.¹¹ In addition, two regions conducted lead-based paint testing in all buildings constructed before 1978, while another region performed the tests only as a precursor for alteration work.¹² Lastly, hazard communication plans were on file for five of six buildings in one region, but only one of six buildings in another region.

A lack of policy to promote consistent environmental management practices makes it difficult to collect and analyze nationwide environmental data and identify environmental risk. Without formal policies, the Environmental Division's ability to effectively monitor and oversee PBS's environmental risks will continue to be complicated by regional inconsistencies.

Recommendation 3

We recommend that the PBS Commissioner establish and enforce consistent environmental management practices across the regions.

Management Comments

The PBS Commissioner concurred with our finding and recommendation. Management's written comments to the draft report are included in their entirety as **Appendix B**.

¹¹ PBS issued formal radon policy during the course of this audit on April 17, 2014, *PBS FMSP Risk Management Division, Radon GSA Guidance*. The policy requires testing for radon in all childcare centers in accordance with state and national authorities; in all new federal buildings, after construction but before occupancy; and to serve as an initial baseline in existing federal buildings, when no prior results exist.

¹² The *Lead Based Paint Technical Guide 402-1001* specifies that lead-based paint testing is required wherever renovation projects may disturb affected surfaces. Further, test results revealing elevated lead levels require continuous monitoring.

Finding 4 -- Environmental management responsibility in tenant space is unclear.

PBS's tenant occupancy agreements do not address tenant responsibilities for the management of environmental hazards.¹³ The lack of such an agreement could lead to undetected and untreated environmental risks, particularly in secure tenant space that is not accessible to PBS.

Tenant occupancy agreements do not assign responsibility for the management and remediation of environmental contaminants resulting from tenant operations or for ultimate restoration of the space. This has resulted in problems with environmental building management and restoration. Two firing ranges located in a federal building in New York have remained closed since 2011. PBS and the tenants continue to disagree on the responsibility of funding the restoration of the space. As a result, the firing ranges have remained locked and unused since their closure. Additionally, a 2007 compliance audit of the building found that one tenant had not properly maintained its firing range for several years. The compliance audit also found a tenant had been improperly disposing silver bearing wastewater into the sanitary sewer system.

Furthermore, some tenant space is not readily accessible to PBS, hampering its ability to manage all of the environmental risks in its facilities. This is especially an issue with tenants such as the Federal Bureau of Investigation, the U.S. Marshals Service, or other law enforcement personnel. For example, PBS officials do not have access to the firing range or its inspection records at a Maryland courthouse. Firing range maintenance in the building is handled by the tenant, who contracts for cleaning and inspection of the firing range. However, PBS does not have access to the results of the inspections or the lead testing in the firing range. Thus, PBS cannot ensure that lead exposure levels in the firing range are in accordance with Occupational Safety and Health Administration regulations. Currently, occupancy agreements do not address responsibilities for environmental risks related to tenant activities in space where PBS does not have authorized access.

Tenants are bound to federal laws, the Federal Management Regulations, and their agency's environmental management policies and regulations. However, PBS should proactively define environmental management responsibilities and address access rights in its occupancy agreements to avoid any potential disputes and minimize risks. Tenants and the surrounding environment may be vulnerable to possible environmental contamination in space with unassigned environmental management responsibilities, particularly in space that PBS cannot access.

¹³ The Office of Inspector General reported this issue in two prior audit reports: *Audit of PBS' Environmental Management Program*, Report Number A995196/P/H/R00008, dated February 16, 2000; and *Review of the PBS Environment Program Management*, Report Number A050040/P/4/R06003, dated March 28, 2006.

Recommendation 4

We recommend that the PBS Commissioner incorporate environmental management responsibilities into tenant occupancy agreements, particularly in cases where the tenant's activities pose a greater risk to the environment.

Management Comments

The PBS Commissioner concurred with our finding and recommendation. Management's written comments to the draft report are included in their entirety as ***Appendix B.***

Conclusion

PBS lacks the procedures to sufficiently identify, quantify, and manage environmental contamination in accordance with government orders, laws, and PBS guidance. As a result, PBS facilities, tenants, and the surrounding environment are potentially at risk. Specifically:

- (1) PBS is not effectively monitoring environmental risks nationwide;
- (2) PBS is not conducting environmental compliance audits on all of its building inventory;
- (3) Environmental management inconsistencies exist across the regions; and
- (4) Written agreements are needed to ensure tenants clearly understand their environmental management responsibilities in PBS owned buildings.

These findings are consistent with those the OIG previously reported, dating back to February 2000. During the course of this audit, PBS issued formal radon policy and expanded its efforts to collect data on its storage tank inventory nationwide. PBS management also informed us of its intention to issue formal policy on several other environmental contaminants in the early months of 2015. However, to further improve the environmental management program, PBS needs to develop a framework to manage and report on environmental risks; ensure consistent identification and routine maintenance of risk factors at each PBS building; establish agency-wide policy for the risk factors selected; and incorporate environmental management responsibilities into occupancy agreements.

Appendix A – Purpose, Scope, and Methodology

Purpose

This audit of PBS's environmental management process was part of the OIG's Fiscal Year 2014 Audit Plan.

Scope and Methodology

The audit covered PBS's environmental management processes and procedures in PBS Central Office, the Office of Facilities Management and Services Programs, and in the PBS regional offices. We conducted site visits in the New England, Northeast and Caribbean, and Mid-Atlantic Regions and performed detailed reviews on a sample of buildings in each region.¹⁴ These reviews covered a number of environmental risk factors, including asbestos, lead, radon, hazardous materials, and storage tank maintenance.

To accomplish our objective, we:

- Interviewed PBS personnel in the Environmental Division of the Office of Facilities Management and Services Programs;
- Reviewed and analyzed environmental management laws, regulations, policies, and guidance from PBS, the Environmental Protection Agency, the Occupational Safety and Health Administration, and Executive Orders 13423 and 13514;¹⁵
- Interviewed PBS building management and building operations and maintenance contractors for a sample of 20 buildings in three regions;
- Reviewed prior audit reports and news articles on environmental management; and
- Performed a limited survey of all PBS regions to determine environmental management processes.

We conducted the audit between November 2013 and July 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

We evaluated internal controls over PBS's environmental management process to the extent necessary to answer the audit objective. Related internal control issues are discussed in the context of the audit findings.

¹⁴ We reviewed eight buildings in the New England Region, and six buildings in both the Northeast and Caribbean and Mid-Atlantic Regions.

¹⁵ Executive Order 13423, dated January 24, 2007, *Strengthening Federal Environmental, Energy, and Transportation Management*. Executive Order 13514, dated October 5, 2009, *Federal Leadership in Environmental, Energy, and Economic Performance*.

Appendix B -- Management Comments



GSA Public Buildings Service

MAR 10 2015

MEMORANDUM FOR MARISA A. ROINESTAD
ASSOCIATE DEPUTY ASSISTANT INSPECTOR GENERAL
FOR AUDITING PROGRAM AUDIT OFFICE (JA-R)

FROM: NORMAN DONG
COMMISSIONER (P)
PUBLIC BUILDINGS SERVICE 

SUBJECT: Draft Report: PBS's Identification and Management of
Environmental Risks Need Improvement
Report Number A130131

The Public Buildings Service (PBS) appreciates the opportunity to comment on the subject draft audit report and concurs with the draft report's findings and recommendations. The report recommends that PBS:

1. Develop a system or framework to collect environmental risk data for PBS buildings and facilities to enable the Environmental Division and regional management to manage and report on environmental risks and liabilities.
2. Ensure that environmental compliance audits or equivalent surveys are conducted to identify risk factors for each PBS facility and are updated as needed; and establish policies to ensure the environmental compliance audits or surveys are consistent across the regions and findings are addressed.
3. Establish and enforce consistent environmental management practices across the regions.
4. Incorporate environmental management responsibilities into tenant occupancy agreements, particularly in cases where the tenant's activities pose a greater risk to the environment.

The PBS Environmental Division previously identified the same weaknesses detailed in the audit, and is executing a number of actions that will strengthen the PBS environmental program while addressing the recommendations set forth in the audit report.

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Appendix B – Management Comments (cont.)

2

PBS has created and is currently field-testing a risk-based template for environmental compliance audits that will be mandatory for all regional offices to use beginning in fiscal year 2016. In support of this template, an Environmental Assessment module was implemented in January 2015 as part of PBS's Inventory Reporting Information System (IRIS). This new module will serve as the national data repository for all environmental compliance audits beginning in FY 2016. Further, the use of the Environmental Assessment module in IRIS will allow PBS to track and report on progress toward completing environmental compliance audits and close-out of any corrective actions identified during the audits.

Since not all GSA-owned buildings have received an environmental compliance audit on a regularly-occurring schedule, PBS must first obtain a baseline across the entire inventory of properties. In support of this goal, the PBS Environmental Division developed a risk-based list of all GSA-owned buildings that will be used to prioritize the order in which PBS conducts environmental compliance audits.

To further support PBS's knowledge of the environmental risks in its inventory, PBS added a new Environmental Liability section to the annual Physical Condition Survey beginning in FY 2015. This new section allows the reviewer to identify whether or not there is evidence of a spill or release of any chemical or other substance within or outside of the building. Data is reported quarterly through the existing Environmental Liability process. Inclusion of the Environmental Liability section into the Physical Condition Survey will result in 50% of all GSA-owned buildings assessed every year. The initial survey of all GSA-owned buildings will be complete by the end of FY2016.

In order to standardize and bring consistency to PBS's environmental management across the Nation, the PBS Environmental Division is introducing a number of new and revised policies in FY 2015 and FY 2016. These policies cover topics such as:

- Fuel storage tank management – planned issuance, 3rd quarter FY 2015
- Asbestos management – planned issuance, 3rd quarter FY 2015
- Occupational safety and health – planned issuance, 3rd quarter FY 2015
- Refrigerant use and disposal – planned issuance, 4th quarter FY 2015
- Indoor air quality – planned issuance, 1st quarter FY 2016
- Drinking water – planned issuance, 1st quarter FY 2016

To support these new or revised policies, the PBS Environmental Division is creating data gathering and reporting requirements that will enable PBS to track and document progress on implementing each policy. Additionally, training associated with the implementation of these policies is being developed.

Appendix B – Management Comments (cont.)

3

In regard to PBS's awareness of how tenant activities impact GSA's environmental risks, in January 2015 PBS sent a letter that went to all GSA building tenants – targeting agencies with operations and maintenance delegations – that reminded them of their environmental compliance responsibilities for their activities within PBS space. This letter served as the first of several activities that PBS plans for FY 2015 and FY 2016 that will improve PBS's knowledge of tenant activities that can impact overall building environmental compliance. The PBS Environmental Division is developing standardized language that will be used within tenant Occupancy Agreements that will require tenant notifications to PBS of any hazardous materials use or storage, while also clearly defining financial responsibility for any required cleanup activities. Implementation in tenant Occupancy Agreements is planned for the beginning of October, 2015.

Should you or your staff have questions, please contact Nathan Smith on (202) 501-1116.

Appendix C – Report Distribution

Commissioner, PBS (P)

Deputy Commissioner, PBS (PD)

Chief of Staff, PBS (P)

Regional Administrator (1A, 2A, 3A)

Regional Commissioner, PBS, New England Region (1P)

Acting Regional Commissioner, PBS, Northeast and Caribbean Region (2P)

Regional Commissioner, PBS, Mid-Atlantic Region (3P)

Associate General Counsel, Real Property Division (LR)

Regional Counsel (LD1, LD2, LD3)

Assistant Commissioner, PBS, Office of Facilities Management and
Services Program (PM)

Director, PBS, Facilities Management and
Services Programs Division (1PM, 2PM, 3PM)

Chief Administrative Services Officer (H)

Branch Chief, GAO/IG Audit Response Branch (H1C)

Audit Liaison, PBS (BCP)

Audit Liaison, PBS, New England Region (BCPA)

Audit Liaison, PBS, Northeast and Caribbean Region (BCPA)

Audit Liaison, PBS, Mid-Atlantic Region (BCPA)

Assistant Inspector General for Auditing (JA)

Director, Audit Planning, Policy, and Operations Staff (JAO)