



**VIA EMAIL and OVERNIGHT DELIVERY**

September 16, 2015

Ms. Carolyn N. Lerner  
Special Counsel  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, DC 20036-4505

Re: OSC File No. DI-12-3233  
OSC File No. DI-13-4055

Dear Ms. Lerner:

This letter supplements the General Services Administration (GSA) November 21, 2013 written report sent to your office in response to your February 28, 2013 letter (Office of Special Counsel (OSC) File No. DI-12-3233) to the GSA Administrator.<sup>1</sup> In your letter to us, you relayed the complaint of David Hendricks, a then-retired (now deceased) GSA employee, and later, on September 6, 2013 (OSC File No. DI-13-4055) the complaint of Harold ("Jim") Daniels, a current GSA employee. Their complaints concerned the working conditions at the Bannister Federal Complex (BFC), Kansas City, Missouri. You directed us to investigate these complaints and provide a copy of our investigation and conclusions in accordance with 5 U.S.C. Section 1213.<sup>2</sup>

This supplemental letter is GSA's response to a number of points that have emerged since our written report and to supply answers to questions posed by OSC during a meeting between our respective staffs held on July 15, 2015, in your offices in Washington, DC. Also included in that meeting were representatives from the National Institute of Occupational Safety and Health (NIOSH) and the Centers for Disease Control and Prevention (CDC) who participated by telephone. At the close of the

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<sup>1</sup> GSA's November 21, 2013 written report consisted of a cover letter signed by Susan Brita, who was my predecessor as GSA Deputy Administrator, and an attached investigation report produced by an independent party at GSA's request.

<sup>2</sup> Subsection (c) of 5 U.S.C. 1213 provides for the appropriate agency to conduct an investigation of a complainant's information and to submit a written report to the Special Counsel setting forth the agency's findings.

meeting, GSA agreed to update and clarify specific aspects of this matter. These are discussed below.

**1. The Nature of the 2013 Clover Leaf Investigation.** We would like to clarify the scope of the investigation GSA tasked its contractor, Clover Leaf Solutions, Inc., to conduct. We hired Clover Leaf through a competitive bidding process in compliance with the Federal Acquisition Regulation (FAR), under a Scope of Work that required the winning bidder to have the requisite professional expertise to analyze workplace contamination issues. We sought a contractor who was an independent, neutral third-party subject matter expert with the necessary technical expertise in the area of industrial hygiene. Clover Leaf, with its extensive record of working for the Federal government at agencies having a significant environmental footprint, met our criteria for a company that could provide the kind of sophisticated analysis that the situation at BFC required.<sup>3</sup>

Clover Leaf's investigation was intended to examine the results of all prior investigations of the BFC, not to redo those investigations or create a wholly new study. The Clover Leaf investigation sought to gauge the scope of past studies, offer conclusions that in Clover Leaf's view could reasonably be drawn from that work, and determine whether, in Clover Leaf's expert opinion, any additional study was necessary.

**2. The 2013 Clover Leaf Executive Summary.** In summarizing the results of its examination of the allegations found in your letter of February 28, 2013, Clover Leaf noted:

*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. Results of this investigation indicate that there is no basis for the allegations that GSA had failed to comply with the requirements contained in the OSHA asbestos standards (29 CFR 1910.1001 and 29 CFR 1926.1101).*

*The comprehensive medical exams administered by GSA went beyond the OSHA medical surveillance program requirements for asbestos and noise hazards. In addition to the chest x-ray and pulmonary function tests required by 29 CFR 1910.1001 or 29 CFR 1926.1101, and the audiometric testing required by 29 CFR 1910.95, the comprehensive, annual exam conducted for the*

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<sup>3</sup> As noted in our November 21, 2013 written report (cover letter, p.2, fn. 1), Clover Leaf's government clients have included the Department of Energy (DOE); the U.S. Army Environmental Command; Kirtland Air Force Base, New Mexico; and the National Oceanic and Atmospheric Administration (NOAA). Clover Leaf has also performed work for the National Institute of Occupational Safety and Health (NIOSH), the U.S. Navy, the U.S. Marine Corps, the U.S. Coast Guard and the U.S. National Guard.

*complainant, and other Maintenance and Operations (M&O) employees, included the following:*

- *blood analysis (complete blood count, comprehensive metabolic panel, lipid panel, polychlorinated biphenyls),*
- *urinalysis,*
- *vision testing, and*
- *electrocardiogram (EKG)*

[Clover Leaf Executive Summary, pp. 1-2; emphasis added]

During our July 15, 2015 meeting at OSC, your staff asked whether it is correct to say GSA's Health and Safety Program was "consistently maintained." GSA believes the agency's long-standing program was and continues to be good, as evidenced by our employee medical testing that goes beyond the scope of what is required by regulation and where such testing has uniformly resulted in no adverse health findings. Furthermore, our program conforms to regulatory standards and generally accepted standards of practice, and the record shows that when shortcomings are identified they are remediated.

One example of GSA's practice of identification and prompt remediation is the record of GSA's Public Building Service's (PBS) working in cooperation with the GSA Office of the Inspector General (IG). In response to the IG's November, 2010 examination of the BFC, PBS took immediate action by implementing recommended changes, and on January 4, 2011, informed the IG of these actions (Attachment 1). The IG concurred (Attachment 2) that any shortcomings it had noted were rectified, and in a statement on March 30, 2011 announced: "This memorandum notifies you that resolution has been accomplished."

Another example is how PBS responded to an internal GSA Region 6 Asbestos Hazard Report and Assessment performed in November 2013, which your staff mentioned during our July 15, 2015 meeting. We discuss our response to this assessment in Section 4 below.

We agree that the best of programs may encounter unforeseen events. But we also believe 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.

**3. The 2010 GSA/IG Report.** As noted above, less than three months after notification, GSA had satisfied the concerns expressed in the GSA Region 6 IG's 2010 Report. More importantly, however, and as stated in the Conclusion section of the Report, the IG found no evidence of "any significant health hazards present in GSA-controlled space." This conclusion is buttressed by the record of thousands of workers'

compensation claims filed by BFC occupants in recent decades. The IG's findings on that subject, found in its Report at pages 4, 9 and 10, were as follows:

*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.<sup>4</sup>*

*[Internal footnote 4: No claim contained the Nature of Injury Code DE- Occupational Exposure to Chemicals/Toxins/Biological Substance, etc.]*

*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.*

*[...]*

### **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 Complex do not indicate any sustained exposure to toxic substances by GSA occupants.*

*[...]*

*While the analyses that are currently being performed by NIOSH and EPA will assist in addressing environmental issues at the [BFC], 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 [BFC].*

It is important to note that since the GSA/IG report, the EPA Inspector General report (2011)<sup>4</sup> and the NIOSH report (initially issued in 2011, finalized in 2014)<sup>5</sup> have been completed -- just as envisioned by the GSA Region 6 IG. The findings of both of these reports were in line with the conclusion of the GSA/IG report that there was no evidence of sustained toxic substance exposure to BFC employees.

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<sup>4</sup> Vapor Intrusion Health Risks at Bannister Federal Complex Not a Concern for Buildings 50 and 52, Unknown for Other Buildings (Report No. 11-O-0048), January 5, 2011.

<sup>5</sup> Evaluation of Employee Health Concerns and Suspected Contamination at an Office Complex (Report No. 2010-0061-3206), April 2014.

#### **4. Additional Statements Regarding Asbestos: GSA's Asbestos Program and the 2013 Investigation of Asbestos in GSA Region 6**

##### **A. Nature of GSA's Asbestos Program**

GSA's asbestos management program ramped up in 1987 with the increased EPA emphasis on asbestos (e.g., through EPA's issuance of the Asbestos Hazard Emergency Response Act (AHERA) regulations for schools). GSA hired professionals nationally during that period to manage asbestos in GSA's 11 regions and headquarters. The GSA program was designed to match the AHERA schools requirements, which included facility surveys every 5 years, annual inspections, EPA certified training for staff, and management planning. States also began licensing and certifying firms to work on and remove asbestos at this time. The quality of GSA's program led other federal agencies to ask GSA to conduct asbestos training for their safety, health and environmental professionals. Furthermore, until approximately 1993 GSA was the only federal entity that held EPA accreditation to conduct EPA certified classes in asbestos. GSA's Region 6, headquartered in Kansas City (the site of the BFC), was the specific entity that held this credential.

Over the years GSA has removed a great deal of asbestos from our Federal facilities through our many space upgrades and other construction projects. GSA has also excised or sold off many older properties, most of which contained some asbestos. In the mid-1990s GSA went through an A76 internal assessment, whereby the cost/benefit of having in-house maintenance and custodial staff was compared to contracted services. It was determined that contracting for those services was more beneficial to the government. As a result, nearly all GSA employees nationwide who performed cleaning and building maintenance duties were re-assigned. Those employees who had been trained and were provided the support (in terms of equipment, medical exams, respirators, etc.) to perform asbestos repair, removal and cleanup under the GSA program were no longer required to work with asbestos as part of their job duties. Instead, they were required to oversee and inspect the maintenance and cleaning now done by private firms contracted by GSA.

Nationwide recommendations for program improvement were developed as a result of the investigation. Environmental, health and safety risk from asbestos in GSA buildings is significantly lower than it was 20 years ago. As mentioned previously, GSA employees are no longer employed to remove, repair or clean asbestos. These duties were contracted out to private firms in the late 1990s. GSA has also removed large amounts of asbestos from its inventory of government buildings, and has sold a number of federal properties containing asbestos. In short, the current GSA Federal real property portfolio has much less asbestos, including the higher-risk friable asbestos.

##### **B. GSA Region 6's 2013 Asbestos Hazard Report and Assessment**

An asbestos hazard report and assessment by GSA Region 6 in 2013 was conducted as a result of findings from a periodic safety inspection. However, this periodic safety

inspection soon led GSA to conduct a wider internal investigation into the overall management of the Region 6 asbestos program.

These changes are reflected in GSA Region 6 (as well as all other GSA regions) where employees are no longer required to work with asbestos (other than in a contractor oversight basis as described above). Asbestos abatement efforts have led to a steady reduction of asbestos in GSA facilities. Nearly all of the original GSA asbestos program management elements of the 1980s have remained in place through internal policy issuance, including training, surveying, inspecting, and communication. In the most recent review, the GSA asbestos policy was updated this year (2015) to further re-emphasize the key requirements of training, inspection and communication to avoid accidental disturbance of asbestos and the exposure risk to employees, and to other occupants and visitors in a facility. Region 6 has also recently conducted employee asbestos awareness training and performed quality assurance asbestos inspections to shore up the shortcomings noted in the 2013 report.

## **5. The Scope of NIOSH's HHE**

In the Clover Leaf investigation, at page 21, our contractor noted:

*In our professional judgment, the NIOSH HHE which was initiated at the request of GSA, meets 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.*

As a point of clarification, it should be noted that GSA did not seek NIOSH's assistance in conducting a full history of potential employee health hazards -- i.e., covering the 70-year timeframe from the construction of buildings at BFC in the early 1940s up to the present day. Instead, the review covered the most recent 35-year period starting from the 1980s, for which records were available. Attachment 3 is a July 30, 2015 letter from NIOSH that makes this point, at page 2, towards the end of the first full paragraph.

In examining the potential of exposure to contamination by employees from the 1980s to the present, NIOSH focused on employees who worked on the GSA-owned property and structures (both the M&O and the non-M&O GSA employees). In addition, NIOSH examined the state of exposure experienced by a number of DOE employees who sought NIOSH's assistance during the course of NIOSH's investigation in 2011. As a NIOSH representative explained during the meeting at OSC offices on July 15, 2015, NIOSH never turned away any worker who asked for an evaluation from NIOSH. NIOSH's final Health Hazard Evaluation Report 2010-0061-3206 (pg. 15) drew the following conclusions:

*We 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. This conclusion is based on our review of monitoring and exposure records, our walk-through surveys of the complex and its ventilation systems, and our interviews*

*with employees, managers, and supervisors. We also do not believe there was a cancer cluster among current and former complex employees. This conclusion is based on our review of the data in relation to the scientific criteria for determining whether a cluster of occupational cancer exists. Finally, none of the 22 employees we tested had an abnormal BeLPT, a test that indicates sensitization to beryllium.*

## **6. 2015 GSA/IG Report**

As your staff noted in an email dated August 14, 2015, a GSA/IG Report dated March 20, 2015, entitled "PBS's Identification and Management of Environmental Risks Need Improvement" (Report Number A130131/P/R/R 15003), identifies certain shortcomings in the Public Buildings Service's management of environmental risks, and references the 2010 review of the environmental conditions at Bannister. We would note, however, that this 2015 report was not about environmental programs directly affecting worker health and safety issues, but rather on the issue of programmatic environmental management practices. It broadly surveyed PBS' management nationwide on the agency's environmental compliance programs in regard to Federal, State and local environmental requirements, including how GSA collects environmental risk data to manage and report on environmental risks and liabilities at our facilities; the agency's operation of environmental compliance audit programs; and GSA's focus on tenant activities which pose a risk to the environment. The IG offered specific recommendations on these subjects.

Also, the reference in the 2015 GSA/IG Report to the 2010 GSA/IG Report was extremely limited and not otherwise germane to the objective of the 2015 Report. It merely repeated what the IG's findings had been back in late 2010 -- the concerns which, as noted above, the IG subsequently found had been fully resolved by the agency. In short, GSA believes the 2015 Report, while very useful within its defined scope, adds nothing new or relevant to the current matter before OSC.

## **7. Consideration of OSC's Request for a Study of 40 GSA Employees**

Your staff asked us to consider analyzing the occupational health status of the 40 GSA employees listed in Enclosure A of your February 23, 2013 letter to us.<sup>6</sup> These employees performed maintenance and operations work primarily on the GSA-BFC parcel, and sometimes on the adjoining Kansas City Plant (KCP) parcel owned and controlled by the Department of Energy (DOE). In particular your staff asked in an email of June 17, 2015:

*Consider: whether GSA would consider conducting an epidemiological study to identify whether current and former M&O employees are experiencing higher morbidity and mortality than the general population or other subjects studied by NIOSH.*

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<sup>6</sup> Previous references mention "41 employees" on the list. This should be corrected to refer to "40 employees" since the list contains a duplicate name.

Based on our examination of the facts in this case, and subsequent conversations with both NIOSH and with an expert in the office of Federal Occupational Health (FOH; <http://www.foh.hhs.gov/>), there are no documented findings or any other justification to warrant any such study.

The investigations conducted by DOE/IG, GSA/IG, EPA/IG, Clover Leaf, and NIOSH have, collectively, made clear that the work environments at both the BFC and the KCP parcels do not pose an unacceptable risk to worker health. Since the working conditions on the two parcels meet that standard, it is not relevant whether a given employee works full-time or part-time on one parcel or the other. There should be no reason why there would be an increase in risk to worker safety for GSA workers who visit the KCP side.

When one sets aside the issue of the nature of the work environments at KCP and BFC, and focuses on the status of worker health, the NIOSH and GSA/IG investigations can be fairly interpreted to rule out any identifiable medical condition that might establish an adverse impact on worker health.

The NIOSH study notes:

*On June 1-4, 2010, we visited the Bannister Federal Complex. We held opening and closing meetings with labor, management, and tenant agency representatives. We participated in two town hall meetings arranged by GSA. At each meeting we gave a brief presentation and answered questions. The first town hall was held at the Bannister Federal Complex and was attended by approximately 225 current GSA and tenant agency employees. The second town hall was held at a local International Brotherhood of Electrical Workers union hall and was attended by approximately 250 current and former employees from GSA, their tenant agencies, and the NNSA. Kansas City television, radio, and print media attended both town halls. We were interviewed by the media following the first town hall meeting.*

*On June 2-3, 2010, we held small group meetings (approximately 65 participants) and individual medical interviews (approximately 35 participants) with current and former employees at the Federal Bannister Complex and their family members. Our intent was to listen to employee health concerns and provide information about the NIOSH evaluation. The individual medical interviews afforded each employee a private avenue to express their medical concerns.*

*During the closing meeting, we summarized our visit and discussed the next steps in the evaluation. Based upon the information we reviewed and our visual inspection of the GSA facilities, we identified the following five potential pathways of exposure for GSA and tenant agency employees to substances used in the KCP:*

1. Legacy contamination in current GSA-managed property that was previously managed by NNSA (or previous tenants).
2. Employees from NNSA entering GSA-managed property to patronize the credit union, cafeteria, and other common and/or commercial areas.
3. Current (or past) ventilation systems shared between NNSA and GSA facilities.
4. Re-entrainment of exhausted air from NNSA ventilation systems into the outdoor air intake(s) of the GSA ventilation systems.
5. Openings in the firewall separating the NNSA and GSA facilities (i.e., utility lines, fire doors).

On June 8, 2010 we received a letter from GSA asking us to extend the scope of the HHE to, potential cross contamination issues from the NNSA side of the complex. The original request initially was concerned with potential exposures from groundwater and soil contamination.

### **Exposure Assessment**

On March 1, 2010, we received records from GSA that contained exposure monitoring at the Bannister Federal Complex. The records dated from the 1980s to the present and concerned exposures to metals, volatile organic compounds (VOCs), polychlorinated biphenyls (PCBs), radiation, and drinking water. These monitoring records included chemical and physical hazards, air and surface wipe samples collected across the complex, indoor environmental quality (IEQ) assessments, environmental soil and groundwater monitoring, and environmental site assessments. The documents were prepared by GSA and their consultants and the Environmental Protection Agency (EPA). We are also enclosing an electronic summary (Microsoft Excel® spreadsheet) of the exposure assessment documents that GSA provided NIOSH for review. A summary of our records review is provided below.

[ . . . ]

### **Telephone and E-mail Interviews with Current and Former Employees**

We interviewed 214 former GSA and tenant agency employees, 72 current GSA and tenant agency employees, and 76 current and former KCP employees onsite, by telephone, and through e-mail.

[ . . . ]

### **Summary**

1. Based 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 KCP. Our careful and thorough review of documents, monitoring and exposure records, our assessment of the

work areas, and our interviews with multiple employees, managers, and supervisors all found minimal potential for exposure.

2. We determined there was no cancer cluster among current and former Bannister Federal Complex employees based on our use of scientific criteria for determining whether a cluster of occupational cancer exists.

3. We determined that no employee we tested was sensitized to beryllium. After extensive evaluation of employees to determine who met the criteria to receive testing, we tested 22 individuals with sarcoidosis or other lung conditions that could be mistaken for CBD for beryllium sensitivity, and found no one was sensitized.

4. We plan to review both the EPA's updated hazard ranking and GSA's planned environmental sampling prior to preparing our final report. These reports may further assist us in determining if there are occupational exposures of concern to workers on the Bannister Federal Complex."

[Note that the final NIOSH report is dated April 2014, after NIOSH reviewed both EPA's updated hazard ranking and GSA's planned environmental sampling, without any changes to the original NIOSH findings of 2011].

As previously referenced, the GSA/IG investigation of 2010 made these observations:

*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.*

*[Footnote 4: No claim contained the Nature of Injury Code DE- Occupational Exposure to Chemicals/Toxins/Biological Substance, etc.]*

*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.*

*[...]*

### **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 Complex do not indicate any sustained exposure to toxic substances by GSA occupants.*

Lastly, to secure another independent view of this matter, in August, subsequent to our July 15, 2015 meeting, we contacted the office of Federal Occupational Health (FOH) to discuss the feasibility of performing a specific analysis of the 40 GSA maintenance workers. FOH responded through Dr. Marc Leffer, MD, MPH, who replied by email, stating:

*FOH does not feel that, at this time, any further investigations are indicated, after reviewing the completed NIOSH study.*

*I feel that their evaluation was thorough and complete. I believe that their conclusions are supported by their evaluation.*

*In my opinion, no work-place exposure was documented, despite this evaluation that looked at numerous factors. Therefore no further epidemiologic studies are indicated at this time.*

For these reasons, we agree with the findings of the GSA/IG and NIOSH reports, and we agree with the opinion we received from FOH that there is no justification to warrant any additional study.

### **Conclusion**

I have been briefed on the general history of this matter and specifically on the investigation GSA conducted in response to the request of the Office of Special Counsel. I believe our November 21, 2013 written report, as supplemented by this letter, is thorough, and I believe it fulfills the requirements of the law at 5 U.S.C.1213. I have reviewed the findings of the investigation, and I agree with the conclusion that the allegations the complainants presented to OSC lack merit. As such, I do not find any violation or apparent violation of law, rule or regulation. Therefore, 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.

Thank you for bringing this matter to the attention of GSA. If I may be of any further assistance, please let me know at your earliest convenience, or you may also contact Carol Schafer of the GSA Office of the General Counsel, [carol.schafer@gsa.gov](mailto:carol.schafer@gsa.gov) (202-501-0255).

Sincerely,



Adam Neufeld  
Acting Deputy Administrator

Enclosed Attachments:

1. Closeout application from PBS to the GSA/IG 2010 Investigation, January 4, 2011
2. GSA/IG Concurrence in PBS' closeout application, March 30, 2011
3. NIOSH Letter to GSA, July 30, 2015



GSA, Office of the Regional Administrator  
Heartland Region, Kansas City

January 4, 2011

MEMORANDUM FOR JOHN WALSH  
REGIONAL INSPECTOR GENERAL FOR AUDITING (JA-6)  
FROM: JASON KLUMB *Jason Klumb*  
REGIONAL ADMINISTRATOR (6A)  
SUBJECT: Report Number A100116/P/6/R1101

We have received the memorandum dated November 8, 2010, on the subject report from the Heartland Regional Inspector General for Auditing.

As requested in that memorandum and in accordance with GSA Order ADM P 2030.2C, we are submitting the enclosed time-phased action plan in response to the recommendations specified in the report. The plan includes step-by-step actions and completion dates to address the recommendations contained in the subject audit report.

We have also completed the Management Decision Record as required, which is attached to this letter.

Please direct any questions on this matter to Mr. Courtney Springer, Deputy Director of Facilities Management and Services Program Division, at 816-823-2276.

Attachment

U.S. General Services Administration  
1500 E. Bannister Road  
Kansas City, MO 64131  
jason.klumb@gsa.gov

*ATTCH 1*

**Memorandum for:** Bannister Environmental IG Investigation Corrective Action Plan (CAP) Information

**From:** Eric B. Gibbs   
Branch Chief, Building Operations (6PMX)

**Subject:** Record of meeting with John Walsh, GSA Office of Inspector General

**Date:** February 29, 2012

This note is written to document a meeting between John Walsh and Eric Gibbs on February 29, 2012. Eric asked John to meet in order to discuss the Bannister investigation CAP (attached hereto). For each of the items not marked "completed," John and Eric discussed what, if anything may be outstanding. Here is a summary of discussion of each:

Recommendation number One, Action number 2: The original completion date in the CAP is 12/31/2011. Eric and John discussed that the scope of work intended by the CAP was completed by this deadline. However the overall work plan is not completed because GSA, in agreement with EPA, added a great deal of scope in order to go above and beyond the requirements of the CAP. The overall completion of the work plan is projected to be on 9/30/2012, in accordance with the timing of the transfer from EPA CERCLA to MDNR RCRA. John concurred and stated that as far as he is concerned this item is closed out.

Recommendation number Two, Action number 2: Eric shared with John the copy of the Bannister Environmental Management System (attached). John concurred that this item is considered closed.

Recommendation number Two, Action number 3: Eric shared with John the copy of the document entitled "Professional Development and Continuing Education Plan" (attached). At the top of this document is a graphic which depicts the programmatic responsibilities of the branch associates. John concurred that this item is considered closed.

Recommendation number Two, Action number 4: Eric shared with John the copy of the document entitled "Professional Development and Continuing Education Plan" (attached). This document contains information on education and training for the branch. John concurred that this item is considered closed.

Recommendation number Three, Action number 3: Eric shared with John the copy of the email correspondence from Kevin Santee dated 4/28/2011 (attached), along with the document entitled "Work Plan / Indexing of Scanned Historical Safety & Environmental Records." John concurred that this item is considered closed.

John and Eric both agreed that, based on the documentation all of the CAP items are now closed. John stated that, at this time, he does not need any further information on these issues.

<END OF MEMO>





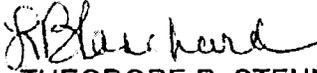
U.S. GENERAL SERVICES ADMINISTRATION  
Office of Inspector General

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MAR 30 2011

MEMORANDUM FOR JASON O. KLUMB  
REGIONAL ADMINISTRATOR (6A)

FROM:

*for*   
THEODORE R. STEHNEY  
ASSISTANT INSPECTOR GENERAL  
FOR AUDITING (JA)

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

In accordance with the provisions of GSA Order ADM P 2030.2D, please be advised that we have reviewed the action plan for the subject audit. The action plan was submitted on January 7, 2011, and additional information was provided during February and on March 1. While we consider the action plan to be responsive to the report recommendations, we offer the following comments.

The Heartland Region Public Buildings Service's (PBS's) response to the first recommendation provides documentation that indicates PBS's environmental management program for the Bannister Federal Complex (Complex) includes partnering with the Environmental Protection Agency (EPA) and performing environmental work as required by EPA. PBS provided additional information that indicates PBS may be attempting to establish an environmental management system (EMS) for the Complex that is compliant with standards set by the International Organization for Standardization (ISO). The ISO 14000 series of standards addresses environmental management. Certification of an ISO 14001 EMS should provide a strong basis for environmental management at the Complex. We agree that the Heartland Region should establish an ISO-certified EMS for the Complex. We note that ISO 14001 emphasizes the generation of hazardous waste and an EMS for the Complex will need to focus more on legacy contamination and related environmental issues.

In addition, although not in the initial action plan submittal, a February 9, 2011, Heartland Regional Counsel legal opinion addresses the last report recommendation.

This memorandum notifies you that resolution has been accomplished. Since the time frame for completing final action is more than 12 months after report issuance date, please be advised that we will be notifying Congress in our Semiannual Report to the Congress, as required by Section 810 of the National Defense Authorization Act, that final action is pending.



Implementation is the responsibility of the program office and the Internal Control and Audit Division (BEI). Additionally, the Office of Audits, as considered appropriate, makes implementation reviews, and the subject report may be selected for such a review.

If you have any questions, please direct your inquiries to John F. Walsh, Regional Inspector General for Auditing at 816-926-8615.

**MANAGEMENT DECISION RECORD FOR INTERNAL AUDIT**  
(For additional information see ADM P 2030.2C)

**A. INTERNAL AUDIT REPORT DATA**

1. Report No. A100116/P/6/R11001 Date: November 8, 2010 By JA-6
2. Title: Review of Health and Safety Conditions at the Bannister Federal Complex, Kansas City, Missouri
3. Number of recommendations: 4
4. For: ( ) Monetary Recommendations fill in below; (X) Non-Monetary - check
- a. Basis for recommendation(s) in ( ) Report, pages \_\_\_\_\_ ( ) Attached
- b. GSA Appropriation: ( ) Yes ( ) No Funds Obligated: ( ) Yes ( ) No
- c. Fund: \_\_\_\_\_
- d. Accounting Code: \_\_\_\_\_
- e. Questioned Costs f. Funds put to better use
- |              |    |   |                   |    |   |
|--------------|----|---|-------------------|----|---|
| Total Amount | \$ | 0 | GSA Budget Impact | \$ | 0 |
| Unsupported  | \$ | 0 | No Budget Impact  | \$ | 0 |

**B. MANAGEMENT DECISION Due By January 8, 2011**

1. Non-Monetary Findings: A management decision is needed as follows:
- a. If you agree with a recommendation: Provide an action package which identifies the actions completed, or to be completed and the date for completion. Documentation must be provided for completed items.
- b. If you disagree with a recommendation: State the basis for your determination with monetary classification.
2. Monetary Findings: Attach an explanation for disagreement with monetary amounts or monetary classification.

3. Agreement/Disagreement with Monetary Recommendations:

		Funds Put to Better Use		
		Questioned Costs	GSA Budget	No Budget Impact
Agreement:	Total Rec	\$ _____	\$ _____	\$ _____
	Unsupported:	\$ _____	\$ _____	\$ _____
Disagreement:	Total Rec:	\$ _____	\$ _____	\$ _____
	Unsupported:	\$ _____	\$ _____	\$ _____

4. Management Decision By [Signature] Date: 1/8/2011
5. Concurrence By RA: [Signature] Date: 1/5/2011
6. Concurrence By HSSO: [Signature] Date: 1/20/11  
(Send completed form with action plan to JA and BEI)

**C. OIG RESPONSE TO MANAGEMENT DECISION**

1. (X) Accepted ( ) Partially Disagree ( ) Fully Disagree
2. Escalated to: \_\_\_\_\_ Date: \_\_\_\_\_  
(If escalated, send form with statement of disagreement to JA and BEI)
3. Accepted by OIG: [Signature] Date: MAR 30 2011



National Institute for Occupational  
Safety and Health  
1090 Tusculum Avenue  
Cincinnati OH 45226

July 30, 2015

Carol A. Schafer, J.D., LL.M., Senior Assistant General Counsel  
Real Property Division  
Office of the General Counsel  
U.S. General Services Administration  
1800 F Street NW Room 2018A  
Washington DC 20405

Dear Ms. Schafer:

This letter is in response to the U.S. Office of Special Counsel's (OSC), within the Department of Justice (DOJ), request to the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention (CDC), housed in the Department of Health and Human Services (HHS), to clarify misstatements asserted by Clover Leaf Solutions, Inc., in its investigative report<sup>1</sup> about NIOSH's findings in its Health Hazard Evaluation (HHE).<sup>2</sup> This letter shall be submitted along with the Clover Leaf Solutions, Inc., investigative report to the President and the appropriate oversight committees in the Senate and House of Representatives, and any other required parties, by DOJ pursuant to 5 U.S.C. § 1213(e)(3).

The Clover Leaf Solutions, Inc., report predicated its investigation on existing reports including NIOSH's HHE. The HHE, however, was conducted for purposes unrelated to General Services Administration's (GSA) investigation – as required by DOJ - into the whistleblower claims alleged by GSA employees. In 2010, GSA requested NIOSH to conduct the HHE<sup>3</sup> at the GSA complex (Complex) located at Bannister Road in Kansas City, Missouri. GSA requested NIOSH to evaluate whether GSA employees' health problems, including cancer, were due to contamination of the buildings, soil, and groundwater of the Complex from the adjoining building – a weapons component agency - also known as the "Plant" owned by Department of Energy (DOE). Though, GSA did *not* request NIOSH to evaluate exposures to GSA employees other than those exposures directly related to contamination from the Plant. For example, NIOSH did not assess asbestos exposure in GSA buildings themselves as it was not considered contamination from the Plant. From an exposure assessment standpoint, the NIOSH HHE focused on evaluating the potential for the Plant's historical contamination to migrate to the GSA

<sup>1</sup> "Occupational Health Exposure Review for GSA Office of Facilities Management and Services" (November 19, 2013).

<sup>2</sup> "Evaluation of Employee Health Concerns and Suspected Contamination at an Office Complex", Report No. 2010-0061-3206, (April 2014). See <http://www.cdc.gov/niosh/hhe/reports/pdfs/2010-0061-3206.pdf>.

<sup>3</sup> NIOSH, acting on behalf of the Secretary of HHS, conducts its research pursuant to its authorities specified in the Occupational Safety and Health Act, 29 U.S.C. §§ 651-674, 677-678 (OSH Act) and the Federal Mine Safety and Health Act, 30 U.S.C. §§ 801-962 (Mine Act). The OSH Act at 29 U.S.C. §§ 669 and 657 and the Mine Act at 30 U.S.C. §§ 951, 813, and 818 specifically address NIOSH's authority to conduct research, enter workplaces, to do research and obtain the records from employers that are needed to do its research.

ATCH 3

buildings. The investigation evaluated employees that reported to work in GSA buildings. The HHE was published in 2014 subsequent to the conclusion of NIOSH's evaluation.

In addition, NIOSH wishes to highlight two misstatements concerning the foregoing HHE in the Clover Leaf Solutions, Inc., report. First, the last paragraph on page 21 of the Clover Leaf Solution, Inc., report states: "In our professional judgment, the NIOSH HHE, which was initiated at the request of GSA, meets 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." The NIOSH HHE, however, was not intended to be an all-encompassing historical review. NIOSH reviewed all the exposure monitoring data provided by GSA which did not contain documentation prior to the 1980's. A historical review would have entailed examination of all documents from construction to present day.

Second, the letter to the Honorable Daniel M. Tangherlini, dated February 28, 2013, states: "the HHE found that Complex employees had never experienced significant exposure from substances at the plant." Contrastingly, 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." Thus, NIOSH did not find evidence of current or recent exposures of concern; however, NIOSH cannot conclusively assert that employees have never been significantly exposed during the lifetime of the facility - particularly prior to the 1980s.

Sincerely yours,

**Elena H.  
Page -S3**  
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Elena H. Page, MD, MPH  
Medical Officer  
Hazard Evaluations and Technical  
Assistance Branch  
Division of Surveillance, Hazard  
Evaluations and Field Studies

**James R.  
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James Couch, CIH, CSP, REHS/RS  
Industrial Hygienist  
Hazard Evaluations and Technical  
Assistance Branch  
Division of Surveillance, Hazard  
Evaluations and Field Studies

cc: Allison Tepper (NIOSH)  
Brandy Anderson (CDC)  
Kevin Santee (GSA)