

MEMORANDUM
February 28, 2011

To: Subcommittee on Contracting Oversight Members and Staff
Fr: Subcommittee Majority Staff
Re: New Information about Public Relations Contracts Awarded to Jane Mobley Associates, Inc.

On Tuesday, March 1, 2011, the Subcommittee on Contracting Oversight will hold a hearing entitled, "Examination of Public Relations Contracts at the General Services Administration's Heartland Region."

The purpose of the hearing is to examine contracts for public relations services at the General Services Administration (GSA) and other federal agencies. In particular, the hearing will review findings from the GSA Office of Inspector General's February 19, 2011 audit memorandum regarding contracts valued at over \$234,000 that were awarded to Jane Mobley Associates, Inc. to assist GSA with responding to media and government agency investigations related to environmental and health concerns at the Bannister Federal Complex, located in Kansas City, Missouri.

This memorandum provides new information regarding the Jane Mobley contract.

I. BACKGROUND

The Bannister Federal Complex (Bannister) comprises more than 14 buildings spread over 310 acres. Ownership and management of Bannister is divided between GSA and the Department of Energy's National Nuclear Security Administration (NNSA), which is responsible for the Kansas City Plant, a facility used to produce nonnuclear electrical and mechanical weapons components for nuclear weapons since 1949. In addition to GSA and NNSA, Bannister houses federal agencies including the Department of Agriculture, the Department of Commerce, the Department of Veterans Affairs, the Marine Corps, and FEMA. In total, more than 2,000 federal employees and 2,300 contractors work at Bannister.¹

¹ The Kansas City Plant was built in 1942 to manufacture airplane engines for the U.S. Navy. Control of the plant was transferred from the Navy to the Atomic Energy Commission in 1949 and to the newly-created Department of Energy in 1977. Today, the Kansas City Plant is managed and operated by the contractor Honeywell on behalf of NNSA. *See* Bannister Federal Complex Legacy Contamination Clarification (online at <http://www.gsa.gov/graphics/regions/BannisterLegacy.pdf>) (accessed Feb. 27, 2011); General Services Administration, Bannister Complex Information GSA Controlled Space (Feb. 5, 2011); Bannister Federal Complex (online at <http://www.gsa.gov/portal/content/101396>) (accessed Feb. 17, 2011).

From the 1940s to the 1960s, portions of Bannister were used as a dumping ground for waste from the Kansas City Plant, resulting in extensive soil and groundwater contamination. Additional contamination, including release of the toxic chemical polychlorinated biphenyl (PCB), a man-made chemical which was banned from U.S. manufacturing in 1979, continued through the early 1970s.²

Over the last two decades, the federal government has worked steadily to address the environmental and health hazards caused by decades of contamination. The Department of Energy closed contaminated lagoons around the Kansas City Plant in 1988 and removed 40,000 tons of contaminated soil from Bannister.³ In 1989, GSA instituted a health and safety environmental control program at Bannister that includes annual health and safety inspections. Additional testing has been done by the National Institute for Occupational Safety and Health (NIOSH) and the Missouri Department of Natural Resources (MDNR). Since January 2010, the Environmental Protection Agency (EPA) has coordinated testing and environmental oversight at Bannister.⁴

In November 2010, the GSA Inspector General released a report finding that GSA's Public Buildings Service (PBS), which was responsible for managing the property, had failed to adequately address environmental concerns at Bannister. The Inspector General found that PBS officials did not understand their environmental responsibilities, including annual reporting requirements under existing law, and that the lack of a strong environmental program contributed to PBS' difficulties in addressing the concerns of Bannister employees and the public. The Inspector General concluded that, when faced with evidence of potential hazards at Bannister, PBS failed to take adequate measures to protect the health and safety of Bannister employees.⁵

² Department of Energy Office of Inspector General, *Environment and Worker Safety Control Systems at the National Nuclear Security Administration's Kansas City Plant* (Sept. 20, 2010) (DOE/IG-0839); Environmental Protection Agency, Polychlorinated Biphenyl Basic Information, (online at <http://www.epa.gov/epawaste/hazard/tsd/pcbs/pubs/about.htm>) (accessed Feb. 24, 2011).

³ Department of Energy Office of Inspector General, *Environment and Worker Safety Control Systems at the National Nuclear Security Administration's Kansas City Plant* (Sept. 20, 2010) (DOE/IG-0839); Today, the Department of Energy has a worker safety and health program and has established controls for monitoring compliance with State and Federal regulations. The Department now tests approximately 70 industrial wastewater samples from the Kansas City Plant per year. *Id.*

⁴ General Services Administration Office of Inspector General, *Review of Health and Safety Conditions at the Bannister Federal Complex Kansas City, Missouri* (Nov. 8, 2010) (Report No. A100116/P/6/R11001); Bannister Federal Complex Legacy Contamination Clarification (online at <http://www.gsa.gov/graphics/regions/BannisterLegacy.pdf>) (accessed Feb. 24, 2011).

⁵ The Inspector General's investigation was originally requested by Senator Christopher Bond on February 3, 2010. General Services Administration Office of Inspector General,

The Inspector General's report acknowledges that there has been no conclusive determination of any current health hazards at Bannister by the various agencies responsible for testing. In addition, the Inspector General reviewed over 4,000 worker compensation claims filed at Bannister between 1988 and April 2010 and found that of the 75 accepted claims that could possibly be attributed to environmental or chemical exposure, "[n]one of the 75 claims were related to long term exposure to toxic substances." In the past ten years, 124 separate environmental tests and analyses have been conducted at Bannister.⁶

II. NEW INFORMATION ABOUT PUBLIC RELATIONS CONTRACTS AWARDED TO JANE MOBLEY ASSOCIATES, INC.

Beginning in November 2009, a series of local news reports raised questions about current environmental conditions at Bannister. According to the reports, employees at Bannister were experiencing health problems similar to those suffered by workers at the Kansas City Plant. One former Bannister employee stated that she had a list of over 180 fellow co-workers who had become ill, died, or received a cancer diagnosis.⁷

According to GSA's Regional Commissioner, Mary A. Ruwwe, by January 2010, the alarm about environmental conditions at Bannister had reached "crisis" levels.⁸ To address these concerns, on February 5, 2010, GSA awarded a contract to Jane Mobley Associates, Inc. (JMA), a small, woman-owned business located in Kansas City, Missouri. In total, GSA paid JMA over \$234,000 for three months worth of work.

At the request of Chairman McCaskill, the Subcommittee initiated an investigation into the award, management, and performance of the JMA contracts. In the course of the investigation, the Subcommittee has received information and approximately 1,500 pages of documents from GSA, the GSA Office of Inspector General, and whistleblowers. Subcommittee staff have also conducted multiple meetings with GSA officials and the Office of Inspector General.

These documents and information show that the JMA contracts had multiple problems, including GSA's failure to adequately plan for and compete the JMA contract or control contractor costs. The JMA contract also experienced significant problems with management

Review of Health and Safety Conditions at the Bannister Federal Complex Kansas City, Missouri (Nov. 8, 2010) (Report No. A100116/P/6/R11001).

⁶ General Services Administration Office of Inspector General, *Review of Health and Safety Conditions at the Bannister Federal Complex Kansas City, Missouri* (Nov. 8, 2010) (Report No. A100116/P/6/R11001).

⁷ *Workers' Health Mysteries Unresolved*, NBC Action News (Nov. 19, 2009) (online at http://www.nbcactionnews.com/dpp/news/local_news/investigations/Workers%27-Health-Mysteries-Unresolved) (accessed Feb. 24, 2011).

⁸ General Services Administration, *Briefing for Subcommittee Staff* (Feb. 14, 2011).

and oversight. From before the contract was awarded through its extension, GSA repeatedly failed to exercise reasonable diligence to protect taxpayer dollars.

A. Lack of Planning and Competition

On February 4, 2010, Mary Ruwwe, the Regional Commissioner for GSA's Public Building Service in Kansas City, instructed a GSA contracting officer to award a \$99,940 task order to JMA using JMA's existing contract on GSA's Multiple Award Schedule.⁹ The contract was awarded one day later, on February 5.¹⁰ GSA justified the lack of competition because of the "unusual and compelling urgency" of the agency's requirement.¹¹ The agency explained:

GSA has been faced with a media probe and reports of multiple Government agency investigations into potential health risks in the GSA controlled Bannister Federal Complex. These reports and investigations have created an impending crisis event for the Government to address citizen concerns and media reports. It is imperative that a neutral 3rd party expert be procured to assist the Government in addressing the issues as they arise from environmental and related concerns to ensure and maintain continued public trust.¹²

According to GSA officials, the urgency was created by a significant increase in the number of media stories related to health problems at Bannister in January and early February 2010. The stories also drove a significant increase in the concerns expressed by current and former employees, which created a very "intense" environment.¹³

These circumstances do not appear to meet the legal standard for an "unusual and compelling urgency" which would justify limiting competition. Under the Federal Acquisition Regulation (FAR), "unusual and compelling urgency" refers to circumstances in which the government would be "seriously injured" unless the government is allowed to limit competition. According to the GSA Inspector General, however, GSA was unable to demonstrate how the government would have been seriously injured had the contract been opened to competition.¹⁴

⁹ General Services Administration Office of Inspector General, *Interview of [Contracting Official]* (Dec. 7, 2010).

¹⁰ General Services Administration, *Requisition/Procurement Request for Equipment, Supplies or Services 6PMC-10-0031* (Feb. 5, 2010).

¹¹ General Services Administration, *Limited Sources Justification and Approval for Environmental Communications Specialist Consulting Services* (Feb. 4, 2010).

¹² General Services Administration, *Limited Sources Justification and Approval for Environmental Communications Specialist Consulting Services* (Feb. 4, 2010).

¹³ General Services Administration, *Briefing for Subcommittee Staff* (Feb. 14, 2011).

¹⁴ General Services Administration Office of Inspector General, *Audit Memorandum: Task Order for Environmental Communications Services at the Bannister Federal Complex* (Feb. 18, 2011).

In addition, media stories regarding health and safety concerns at the complex had been appearing regularly for several months prior to the award of the contract.¹⁵ According to Robert Peck, the PBS Commissioner, GSA officials had repeatedly discussed the need for effective communications at Bannister for at least six months prior to the award of the JMA contract and the Kansas City GSA staff had been told to seek outside expertise in crisis communication for several months.¹⁶

GSA also stated that the contract award was necessary because GSA “lacked the capacity to handle the complexity” of the agency’s communications relating to Bannister. In a letter to the Subcommittee, Martha Johnson, GSA Administrator, stated:

In sum our decision to retain JMA was based on our need to effectively address questions regarding potential health issues at the Bannister Federal Complex. We take this responsibility seriously and our decision to retain JMA was indicative of our desire to leverage the resources necessary to address the situation appropriately.¹⁷

However, information provided to the Subcommittee shows that GSA appears to have had sufficient full-time staff in the region and in D.C. whose positions directly relate to public affairs and communications to adequately address the concerns related to Bannister. At the time of the contract award, GSA had approximately 24 individuals who were responsible for public affairs for the agency, 11 of whom were assigned to the regions (one per region).

According to GSA officials, the “general practice” is that only individuals at a GS-13 level or higher are allowed to handle media inquiries. Based on the information provided to the Subcommittee, GSA had 8 individuals, including the individual responsible for the Kansas City Region, who were at a GS-13 level or higher at the time of the JMA contract award. Among these were 3 GS-14s and one GS-15 with a combined 90 years of federal service and an average annual salary of \$128,000.¹⁸

B. Contract Extension

¹⁵ See, e.g., *Workers’ Health Mysteries Unresolved*, NBC Action News (Nov. 19, 2009) (online at http://www.nbcactionnews.com/dpp/news/local_news/investigations/Workers%27-Health-Mysteries-Unresolved) (accessed Feb. 24, 2011); *Federal Complex Investigation Includes Day Care* (Jan. 27, 2010) (online at http://www.nbcactionnews.com/dpp/news/local_news/investigations/Federal-Complex-Investigation-Includes-Day-Care) (accessed Feb. 24, 2011).

¹⁶ General Services Administration Office of Inspector General, *Interview of Robert Peck* (Feb. 9, 2011).

¹⁷ Letter from Martha Johnson, Administrator, General Services Administration to Subcommittee Chairman Claire McCaskill (Jan. 24, 2011).

¹⁸ General Services Administration, *Public Affairs Staffing Explanation* (Feb. 25, 2011).

In early March 2010, GSA modified the JMA task order to extend it for two months at a cost of \$134,400. In addition to continuing to work on communications relating to the environmental and health issues at Bannister, JMA would also “introduce new Regional Administrator to external audiences ... [and] provide communications support to transition Jason Klumb, new Regional Administrator, using activities that emphasize his regional/national reach and role to represent GSA among political/civic/business leaders.”¹⁹

The extension was awarded despite the concerns of Jason Klumb, GSA’s newly-appointed Regional Administrator, who at the time of the extension was travelling in Korea. On March 6, 2010, in an e-mail to Ms. Ruwwe, Mr. Klumb stated:

The cost is very high. ... At this point, I would recommend that the contract not be extended, and that we rely on the experience and expertise of GSA professionals. Please advise.²⁰

Ms Ruwwe dismissed Mr. Klumb’s concerns. On March 7, Ms. Ruwwe responded:

The work they’ve done equates to approx \$125/hour which is low considering we have the owner of the company putting in a lot of time. ... If I had staff with jma expertise and experience, I’d be happy to let jma go. ... The new contract will be month to month and should cost less ... unless we run into some unknowns.”²¹

On March 8, the GSA contracting official sent the contract extension to Jane Mobley for signature. Ms. Mobley promptly forwarded the extension document to a JMA colleague and urged her to hurry to get the contract signed, saying: “Pls get Jenny and execute asap:-) before it’s wakeup time in Korea.”²²

C. Failure to Control Contract Costs

The documents and information provided to the Subcommittee suggest that GSA failed to take appropriate steps to ensure that the prices paid to JMA were fair and reasonable. As a result, the government may have spent far more than was necessary.

¹⁹ E-mail from [Contracting Official], General Services Administration, to Jane Mobley attaching Amendment of Solicitation/Modification of Contract (March 8, 2010).

²⁰ E-mail from Jason Klumb, Regional Administrator (Heartland Region), General Services Administration, to Mary Ruwwe, Regional Commissioner (Heartland Region), Public Buildings Service, General Services Administration (March 6, 2010).

²¹ E-mail from Mary Ruwwe, Regional Commissioner (Heartland Region), Public Buildings Service, General Services Administration to Jason Klumb, Regional Administrator (Heartland Region), General Services Administration (March 6, 2010).

²² E-mail from [Contracting Official], General Services Administration to Jane Mobley attaching Modification and Technical Communications Services Statement of Work (March 8, 2010); E-mail from Jane Mobley to Kelly [Withheld] (March 8, 2010).

GSA did not conduct an independent government estimate of the costs to perform the task order. Instead, GSA's determination that the price of the \$99,940 task order awarded on February 5, 2010 was reasonable was based on two factors, neither of which is persuasive.

First, GSA compared JMA's hourly rates to the rates of two other vendors in GSA's Multiple Awards Schedules program. Because the average rate of all the JMA employees who would work on the contract was lower than the averages of the other vendors, GSA officials concluded that JMA's price was reasonable. However, the labor hours provided by JMA were not linked to specific tasks or deliverables in the contract, meaning that GSA could not appropriately compare the overall costs to complete the contract. In fact, as it turns out, much of the work in the JMA contract was completed by the principal of the company, Jane Mobley, whose rate of \$270.41 per hour was more costly than the rate of the principal of one of the comparison vendors.²³

Second, at Ms. Ruwwe's request, Rich Hood, the Associate Regional Administrator for Media & Intergovernmental Relations for EPA in the region, reviewed the proposal. Mr. Hood responded that the proposal's pricing was "not unreasonable for the quality I expect to see from this group."²⁴ However, the contract file does not contain any information regarding Mr. Hood's qualifications to make this determination.

GSA also failed to determine whether the price of the March 8, 2010 contract extension was reasonable. Although GSA officials conducted an independent estimate of how much the contract should cost, the estimate was based on the number of hours and the prices that JMA had worked during the previous month, rather than the costs of the tasks and deliverables that JMA was expected to provide. And, although the government's estimate found that the anticipated costs of the JMA extension would be more than \$1,000 less than the price proposed by JMA, GSA failed to negotiate a lower price from the company. Instead, the higher price proposed by JMA was deemed to be reasonable because it was within 10% of the government's estimate.²⁵

D. Failure to Adequately Evaluate JMA

In January 2011, GSA Administrator Martha Johnson defended the agency's selection of JMA to provide public relations services at Bannister. Ms. Johnson stated:

²³ General Services Administration, *Pricing Memorandum: Environmental Communications Specialist Consulting Services* (Feb. 5, 2010).

²⁴ E-mail from Mary Ruwwe, Regional Commissioner (Heartland Region), Public Buildings Service, General Services Administration to Rich Hood, Associate Regional Administrator for Media & Intergovernmental Relations, Region 7, Environmental Protection Agency (Feb. 5, 2010); E-mail from Rich Hood to Mary Ruwwe (Feb. 5, 2010).

²⁵ E-mail from [Pricing Official], General Services Administration, to [Senior Contracting Official] and [Contracting Official], General Services Administration (March 5, 2010); General Services Administration, *Pricing Memorandum: Environmental Communications Consultant Services* (March 8, 2010).

JMA's past experience dealing with crisis management, working with EPA, translating technical data and experience working across a broad spectrum and levels of government, along with their knowledge of the local community uniquely qualified them as the firm best situated to provide the skills and capacity needed to respond to this crisis in a timely and effective manner.²⁶

Documents and information provided to the Subcommittee raise questions about GSA's evaluation of JMA's qualifications. The information provided to the Subcommittee by GSA shows no prior contract awards by EPA to JMA and the Subcommittee has not been able to independently identify any record that JMA provided services to EPA. Rich Hood, the EPA official who originally suggested that GSA work with JMA, has stated that his familiarity with JMA was based on the company's reputation rather than any previous contract.²⁷

In addition, there were other companies in Missouri who appear qualified to provide these services. GSA's Multiple Awards Schedules program for public relations services includes at least two other vendors based in Missouri and at least one national vendor with an office in Kansas City.²⁸ Prior to the award of the contract, JMA officials themselves questioned whether the company was "uniquely qualified" to perform this work for GSA. In an e-mail discussing the various ways GSA could award the contract quickly, Jane Mobley stated, "[t]hey could Sole Source but it would really be arguable that no one else could do this but us."²⁹

E. Failure to Define the Statement of Work

On February 3, 2010, after consultation with Robert Peck, the Commissioner of GSA's Public Building Service, and other senior GSA officials in Washington, GSA officials reached out to Rich Hood, the Associate Regional Administrator for Media & Intergovernmental Relations for EPA to request assistance with a contract for public relations services.³⁰ According to GSA officials, Mr. Hood was responsible for putting together the scope of the work for the contract for GSA due to his experience and knowledge of the type of work that would be required.³¹

²⁶ Letter from Martha Johnson, Administrator, General Services Administration to Subcommittee Chairman Claire McCaskill (Jan. 24, 2011).

²⁷ General Services Administration Office of Inspector General, *Briefing for Subcommittee Staff* (Feb. 23, 2010).

²⁸ General Services Administration, *Schedule Details: Advertising & Integrated Marketing Solutions, Public Relations Services* (accessed Feb. 26, 2011).

²⁹ E-mail from Jane Mobley to Kelly [Withheld] (Feb. 4, 2010).

³⁰ E-mail from Cathleen Kronopolus, Assistant Administrator, General Services Administration to Robert Peck, Commissioner, Public Buildings Service, General Services Administration *et al.* (Feb. 3, 2010).

³¹ General Services Administration, *Briefing for Subcommittee Staff* (Feb. 14, 2011).

The information and documents produced to the Subcommittee show that JMA, not Mr. Hood, was primarily responsible for drafting the Statement of Work for the February 5, 2010 task order. Early on February 4, 2010, Jane Mobley asked one of her employees to prepare a Statement of Work for the contract. Ms. Mobley stated:

Rich needs a Statement of Work for what needs to be done – although they don't really know, so it needs to be general enough to fit in every thing [sic] we could find under every rock we turn over ... He was hoping we had or would know where to find a "boiler plate" SOW so they could write a contract right away. Yeah right."³²

Later that morning, Mr. Hood informed Ms. Mobley that he was "trying to locate a scope or statement of work generic off the shelf, but it is very slow going."³³ In response, Ms. Mobley stated: "Don't look too hard. We can send one."³⁴

Shortly thereafter, Ms. Mobley sent a Statement of Work to Mr. Hood. The final statement of work incorporates only two changes from the version provided by JMA. The first is the insertion of Mr. Hood's name as the "Technical P.O.C." for the contract. The second is a change to the first task, from the proposed "Relocation of the Bannister Federal Complex Day Care Center" to "Potential Relocation of the Bannister Federal Complex Day Care Center due to Media Generated Concerns or Recommendations."³⁵ According to Ms. Ruwwe, these changes were made at the request of GSA.³⁶

The GSA Office of Inspector General recently found that the Statement of Work for the task order was not sufficiently detailed to enable the Inspector General to determine what specific work was purchased or how the work was to be evaluated. The Office of Inspector General also noted that GSA failed to adequately document and support the Statement of Work in the task order file.³⁷

³² E-mail from Jane Mobley to Kelly [Withheld] (Feb. 4, 2010).

³³ E-mail from Rich Hood, Associate Regional Administrator for Media & Intergovernmental Relations, Region 7, Environmental Protection Agency to Jane Mobley (Feb. 4, 2010).

³⁴ E-mail from Jane Mobley to Rich Hood, Associate Regional Administrator for Media & Intergovernmental Relations, Region 7, Environmental Protection Agency (Feb. 4, 2010).

³⁵ General Services Administration, *Contract File for JMA Contract: Tab 1*; E-mail from Jane Mobley to Rich Hood Rich Hood, Associate Regional Administrator for Media & Intergovernmental Relations, Region 7, Environmental Protection Agency, attaching Statement of Work (Feb. 4, 2010).

³⁶ General Services Administration, *Briefing for Subcommittee Staff* (Feb. 14, 2011).

³⁷ General Services Administration Office of Inspector General, *Audit Memorandum: Task Order for Environmental Communciations Services at the Bannister Federal Complex* (Feb. 18, 2011).

III. WITNESSES

The following witnesses have been invited to testify at the hearing:

The Honorable Brian Miller

Inspector General
U.S. General Services Administration

The Honorable Martha Johnson

Administrator
U.S. General Services Administration

Robert Peck

Commissioner
Public Buildings Service
U.S. General Services Administration

Mary Ruwwe

Regional Commissioner (Heartland Region)
Public Buildings Service
U.S. General Services Administration