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RICHARD H. POFF FEDERAL BUILDING RENOVATION: IS IT COSTING THE TAXPAYER TOO MUCH?

(112–27)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

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U.S. House of Representatives
Committee on Transportation and Infrastructure

John L. Mica
Chairman

James W. Coon II, Chief of Staff

Washington, DC 20515

April 8, 2011

Nick J. Rahall, II
Ranking Member

James H. Zoia, Democrat Chief of Staff

BRIEFING MEMORANDUM

TO: Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management
FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff
SUBJECT: Oversight Hearing on "Richard H. Poff Federal Building Renovation: Is it Costing the Taxpayer Too Much?"

PURPOSE

The Subcommittee on Economic Development, Public Buildings and Emergency Management will meet on Thursday, April 14, 2011, at 10:00 a.m., in 2167 Rayburn House Office Building to receive testimony from Congressman Bob Goodlatte, the General Services Administration (GSA) and the GSA Inspector General. The hearing will focus on the renovation and modernization of the Richard H. Poff Federal Building, located in Roanoke, Virginia.

BACKGROUND

General Services Administration

The Subcommittee has jurisdiction over all of GSA's real property activity through the Property Act of 1949, the Public Buildings Act of 1959, and the Cooperative Use Act of 1976. These three Acts are now codified as title 40 of the United States Code. The Public Buildings Service (PBS) is responsible for the construction, repair, maintenance, alteration, and operation of United States courthouses and public buildings of the Federal Government. Additionally, PBS leases privately owned space for Federal use. GSA owns or leases 9,600 assets and maintains an inventory of more than 362 million square feet of workspace. GSA acts as the "landlord" for the federal government, obtaining and managing space to meet the space needs of other federal agencies. GSA,

however, is just one of nine[1] federal agencies that, in total, own or manage 93% of federal real property.

Recovery Act

Last Congress, the American Recovery and Reinvestment Act (ARRA) was enacted into law. Included in ARRA was $5.5 billion for the Federal Buildings Fund (FBF) of the General Services Administration.[2] ARRA designated $4.5 billion of those funds for converting GSA buildings into High Performance Green Buildings, as defined by the Energy Independence and Security Act (EISA) of 2007. GSA has submitted a Spend Plan to the Committee along with periodic updates to that Plan, the most recent submitted in December 2010. The GSA Spend Plan details the projects funded through the ARRA and their costs. GSA has obligated all but $295 million of its ARRA funding.

Richard H. Poff Federal Building

The Richard H. Poff Federal Building ("Poff Federal Building") is included in GSA's Spend Plan as an ARRA project. The building is located in Roanoke, Virginia and was constructed in 1975. It has approximately 316,000 gross square feet of space and is occupied by the Department of Veterans Affairs (VA) (49%), the U.S. courts and U.S. Marshals (36%), and other agencies (15%). According to GSA, the purpose of the project is to update building systems as well as improve its energy efficiency by incorporating "greening" elements.

More specifically, the project includes replacement of the window curtain wall; installation of a HVAC system; renovations of bathrooms; upgrades to the lighting fixtures; and the installation of a new green roof with a solar system (photovoltaics).

The total cost of the project as listed in the GSA Spend Plan is $51 million. GSA estimates the total construction costs to be $43.9 million, design costs $4 million, and management and inspection services $3 million. However, there is expected to be an additional $10 to $15 million in costs associated with moving and temporary swing space for the building tenants.

Inspector General Report

On November 17, 2010, a Recovery Act report on the Poff Federal Building was issued by the GSA Inspector General (IG).[3] The IG found that in awarding the contract to renovate the Poff Federal Building, GSA failed to get an independent government estimate for the construction as required by section 36.203 of the Federal Acquisition

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[1] The other major land-holding departments and agencies include the Department of Defense, Veterans Affairs, Department of Energy, Department of Homeland Security, Department of the Interior, Department of State, National Aeronautics and Space Administration, and the U.S. Postal Service.
[2] GSA received additional funding in ARRA for land ports of entry and is assisting other agencies, such as the Social Security Administration, in the construction of facilities funded through ARRA.
[3] Recovery Act Report, Audit Number A090172/P/R11003, November 17, 2010.

Regulation (FAR). In addition, the IG concluded that although a competitive process was used, by including the Guaranteed Maximum Price in the Request for Proposals, the pricing for the construction services was not based on competition and, therefore, was a violation of the Competition in Contracting Act (CICA).

The IG recommended that:

(1) GSA not exercise additional options on the Poff Federal Building contract unless they are in compliance with CICA. The IG noted that the Poff project has options for security improvements at $7.6 million and building code and life safety improvements at $4.6 million.

(2) The IG further recommended that GSA establish management controls to ensure Construction Manager as Contractor (CMc) contracts, as used for the Poff building, meet competition requirements.

In response to the IG report, GSA indicated that, should additional work be required under the options, GSA would take action to award that work "in accordance with applicable laws." GSA also noted that it had developed and was then implementing a corrective action plan in response to similar concerns raised about other projects.[4] GSA noted that their implementation of that plan, as approved by the IG, would address the IG's second recommendation.

Other Issues

Congressman Goodlatte has expressed concerns and has followed up with GSA and the GSA IG on a number of these issues. In addition to the contracting issues identified by the IG, some key issues that have been raised relate to the cost-benefit analysis related to some of the greening elements, whether the renovation costs are reasonable, whether renovation was the most cost-effective solution for meeting the tenants' space needs, and the impact of the construction on the tenant agencies.

In addition, Senators Webb and Warner have also expressed concerns, particularly regarding the impact of the renovation on current tenants. In particular, a letter they wrote to the VA and GSA on July 29, 2010, noted their concerns that the renovations would impact the VA Regional Office's efforts to reduce its claims backlog and address VA's long-term capacity issues.

[4] See GSA IG Recovery Act Report on the UN Plaza Renovation Project Construction Contract Review of PBS's Major Construction and Modernization Projects Funded by the American Recovery and Reinvestment Act of 2009, A090172/P/R/R10005, May 27, 2010; GSA IG Recovery Act Report on the Austin Courthouse Project Review of PBS's Major Construction and Modernization Projects Funded by the American Reinvestment and Recovery Act of 2009 A090172/P/R/R10001, March 12, 2010.

WITNESSES

The Honorable Bob Goodlatte (R-VA)
Member of Congress

The Honorable Brian Miller
Inspector General
U.S. General Services Administration

Mr. David H. Ehrenwerth
Regional Administrator
U.S. General Services Administration

Ms. Julia Dudley
Clerk
U.S. District Court
Western District of Virginia

RICHARD H. POFF FEDERAL BUILDING RENOVATION: IS IT COSTING THE TAXPAYER TOO MUCH?

THURSDAY, APRIL 14, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:09 a.m. in Room 2167, Rayburn House Office Building, Hon. Jeff Denham (Chairman of the subcommittee) presiding.

Mr. DENHAM. The subcommittee will come to order. First, let me welcome our witnesses here with us today. I especially want to recognize Representative Goodlatte. Thank you for joining us. Virginia—the renovation of the Richard H. Poff Federal Building in Roanoke, Virginia, is on GSA's list of Recovery Act projects, costing the taxpayer more than $50 million, not including the cost of temporary space for the tenant agencies.

Last Congress the Recovery Act provided $5.5 billion from GSA's Federal building fund, $4.5 billion of which was designated for converting Federal buildings into high-performance green buildings, trumping job creation as a priority. Greening buildings can be good if it is cost effective. But as Chairman Mica's "Sitting on our Assets" report pointed out, certain features like solar panel roofs typically do not see any return until well after the useful life of the roof.

In fact, the GSA inspector general has found in a number of cases pay-back periods well beyond reasonable return to the taxpayer. It is unclear whether this lack of reasonable return was taken into account before GSA proceeded with this project, and whether any such analysis guided GSA in which greening features made sense and which did not.

In addition to the cost, this project is expected to have a detrimental impact on the operations of the tenant agencies. The Poff Federal Building houses critical Federal entities, including the Department of Veterans Affairs and the U.S. Courts. The renovation will likely disrupt these operations, including relocation, relocating the VA in up to four different locations, raising concerns among a number of Members from the Virginia delegation as to how they will impact the processing of veterans' claims.

And on top of these issues, the GSA IG has raised questions as to whether GSA followed all applicable contracting laws in award-

ing the construction contract, further bringing into question whether the costs are justified. Last November the GSA inspector general issued a report on this project, concluding that GSA failed to get an independent government estimate for the construction, and that by including the guaranteed maximum price in the RFP, GSA's pricing was not based on competition, as required by law.

Some of the questions we hope will be addressed today include: is this renovation costing the taxpayer too much money; did GSA fully weigh the costs and benefits of the greening features and alternative housing solutions before proceeding with this project; did GSA get the best price for this deal; what steps is GSA doing to comply with the contracting laws; how many local jobs will this project create; and what is GSA doing to minimize the impact on the building's tenants?

Again, I want to thank Congressman Goodlatte for his leadership on this issue, and hope we can get the answers to these important questions.

I would now like to recognize Ranking Member Norton from the District of Columbia for 5 minutes to make any opening statement she may have.

Ms. NORTON. Thank you, Mr. Chairman. And thank you very much for calling this hearing.

The American Recovery and Reinvestment Act of 2009 provided $5.5 billion to the General Services Administration, $4.5 billion of which was to convert GSA buildings into high-performance green buildings in all 50 States, the District of Columbia, and the 4 territories. The Recovery Act's primary purpose is to stimulate economic activity through investments and preserve and create jobs, spur technological advances to enhance energy conservation, and improve infrastructure to provide long-term economic benefits for the government and for the people.

The Federal Government and the States were responsible for addressing the badly needed infrastructure upgrades that we got done in the Recovery Act, which pushed the government's responsibilities further during the response, which pushed GSA's responsibilities further during this recession, since infrastructure construction would also create jobs during the worst recession since the Great Depression.

Our goal, however, has been not only to distribute the funds quickly to spark job creation, but to ensure that these investments lead to long-term savings.

We are especially grateful that a recent Congressional Budget Office report on the Recovery Act released 2 months ago shows that the Recovery Act has had a positive effect on the Nation's economy. CBO estimates that the Recovery Act lowered the unemployment rate between .7 and 1.9 percentage points, increased the number of people employed by 1.3 million to 3.5 million Americans, and increased the number of full-time jobs by 1.8 million to 5.0 million, compared with what would have occurred without the Recovery Act.

According to CBO, the Recovery Act saved jobs, increased job opportunities, and increased the gross domestic product by 3.5 percent. The Recovery Act was enacted while I chaired this subcommittee, when jobs were all that was on the country's mind. I

see the—to see the quickest possible job creation, the subcommittee held six tracking hearings.

We should give GSA credit, because credit is due. GSA has awarded contracts and begun work on 273 Recovery Act projects worth $5.2 billion, which was almost all of the Recovery Act funds under their jurisdiction. As of January 2011, GSA had already completed work on 26 projects, totaling $100 million. With bids for infrastructure projects coming in much lower than expected, GSA has saved the government $565 million, and has redirected these funds to 17 additional projects which urgently needed infrastructure upgrades. These projects will result in the installation of 78 roofs, including 68 photovoltaic rays on roofs, putting in place 140 light systems, installing 52 water systems, as well as completing 222 system tune-ups and recommissionings.

Because of the high level of transparency, and the reporting requirements the committee insisted upon, there has been an unprecedented level of accountability while implementing these projects. Moreover, the Recovery Act actually established a special recovery board composed of inspectors general of the agencies that received funds. This unusual approach assured an environment where taxpayers' dollars would be sent quickly and—spent quickly and well, and the posting online of projects on each project, along with our frequent subcommittee hearings, all contribute to GSA's progress in meeting the mandate to get the funds on the street quickly but carefully.

Along with other Federal agencies and the States, GSA stretched Recovery Act dollars further than anticipated. However, GSA should get special credit. Because, unlike most of the agencies, GSA was not a pass-through to the States. GSA was directly responsible for getting the funds out and working on the construction that produced the jobs. However, GSA did the work and deserves the credit. However, although GSA did the work and deserves the credit, GSA also must take a responsibility for whatever issues we find as today's hearing indicates.

The success of the Recovery Act in helping the Nation emerge from the Great Recession in no way negates the need for continuous vigorous oversight by this subcommittee, or suggests that there are not problems from which GSA and the subcommittee can learn. Our subcommittee continues to bear a direct responsibility for the stimulus funds under our jurisdiction.

Again I want to thank Chairman Denham for continuing these oversight efforts. Today we will focus our oversight on the renovation and modernization of the Richard H. Poff Federal Building in Roanoke, Virginia, funded by the Recovery Act. The Poff Building was constructed in 1975. It is owned by the government, and it is approximately 316,000 gross square feet of space occupied by the Department of Veterans Affairs, the U.S. Courts, the U.S. Marshal Services, and other agencies.

Although the building is 35 years old, it has never had a comprehensive modernization. The Recovery Act modernization of the Poff Building includes a replacement of the window curtain wall, installment of an HVAC system, renovations of the bathrooms, upgrades to the lighting fixtures, and the installation of new, sustainable roofs, including a solar system to generate electricity. This

project will increase the life of this Federal asset, and will result in a high-performing, energy-efficient Federal building and ensure that the Federal investment in space the government owns is preserved, ensuring the highest and best use and its continuing contribution to the Federal building fund, as well as avoiding the need for rental space for these agencies.

However, in reviewing this particular project, the GSA inspector general has raised concerns about whether the procurement for this project met competition requirements, and whether GSA has an adequate system of controls to ensure that the Poff Building project met competition requirements. GSA has concurred with both findings of the IG report, and is committed to implementing its recommendations.

In addition, the U.S. representative from Roanoke, Virginia, and the two U.S. senators from Virginia have raised concerns about the impact of the operations of the Roanoke Veterans Affairs regional office, the building's largest tenant, and the efficacy of the energy improvements. We need to hear from GSA about what gave rise to the problems in order to ensure that they have been ameliorated, and will not occur again.

I encourage GSA to allocate funds to projects that provide the best return in maintaining our public building inventory, and putting even more Americans to work. I look forward to hearing from the witnesses today about the modernization of the Poff Building and the cost benefit analysis used in selecting this project for modernization.

I thank you, Mr. Chairman.

Mr. DENHAM. Again I would like to welcome our witnesses here today. We will now call our panel of witnesses. The first, Honorable Bob Goodlatte from Virginia. Welcome.

TESTIMONY OF HON. BOB GOODLATTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA; HON. BRIAN D. MILLER, INSPECTOR GENERAL, GENERAL SERVICES ADMINISTRATION; DAVID EHRENWERTH, REGIONAL ADMINISTRATOR, MID-ATLANTIC REGION, GENERAL SERVICES ADMINISTRATION; AND JULIA C. DUDLEY, CLERK OF COURT, UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF VIRGINIA

Mr. GOODLATTE. Well, thank you, Mr. Chairman, Ranking Member Norton, other members of the committee. I very much appreciate the subcommittee's willingness to hold a hearing on this important issue, and for allowing me to testify regarding the Richard H. Poff Federal Building renovation in Roanoke, Virginia.

My statement exceeds 5 minutes, so I know that is a part of the record, and I will summarize the points.

First of all, I want to say that when this—this building was built in 1975 at a cost of approximately $14 million. And when it was announced in April 2 years ago that this would be a renovation project that would cost initially $51 million to replace the roof, windows, bathrooms, and HVAC system, I immediately began receiving lots of contact from my constituents, who thought that this was a gross waste of money on a building that has received not a lot of plaudits over the years from the people who occupy it as being

a good building. And that investment did not seem worthwhile to them. This included contacts from architects and engineers and others who have experience with these types of contracts.

And so, I immediately began asking questions of the GSA. And for about a year, that correspondence took place just between me and the GSA. I did not go public with it, because I really wanted to get to the bottom of this. I was not looking for any kind of attention to the project, other than what was already being received. And then, when I repeatedly did not get any cooperation from the GSA, I finally went public with the issue, and a lot more information has been forthcoming, as a result of that, which is, I think, of benefit to the committee in examining what went wrong here.

The GSA repeatedly failed to fully answer my many questions about the project's bid process and design process, in a pattern defined by a lack of transparency, unresponsiveness, and dismissal of the public's concerns about this project from its inception. The GSA's inspector general audited the project, and found that the agency provided the bidders the maximum contract amount, in violation of Federal procurement laws, giving bidders that information and depriving taxpayers of a fair process to determine the true cost of the project.

The Ranking Member correctly noted that the environment for these types of projects has been very good, in terms of getting bids below the estimated cost. That did not happen in this instance because the GSA said the maximum amount that they would pay, and guess what? That is what the bids were.

In addition, because of the lack of study ahead of time, it has now been determined that the primary tenant of the building will have to move out for a long period of time. So this is going to be a cost overrun of at least in excess of $60 million, probably $65 million.

Other than a two-page summary prepared after the project was commenced, the agency has never provided a comprehensive cost benefit analysis showing that the renovations would be more fiscally responsible than constructing a new building, nor have they considered a number of other alternatives that could be less expensive and more effective, including not doing major renovations, selling the building, building a new Veterans Affairs building, as was suggested by Virginia Senators Warner and Webb, or building a new courthouse. The GSA bypassed the normal procurement process, similar to what was used to build the new Social Security Administration building in Roanoke, preventing the full disclosure of the supposed benefits and project costs of green updates.

The safety and security of the Poff Building has been given only cursory attention, despite the structure being located along a major thoroughfare in Roanoke's central business district. I attended a meeting in October of 2010 with members of the Poff Building's security committee and GSA officials to discuss the security of the building. To my knowledge, no action regarding the security of the building has been taken since then, even though it is widely known that there are major security concerns with this building that houses the United States District Court, which deals with a lot of controversial and high-profile criminals and other types of court proceedings.

The security upgrades to the building, which will have to be done, will require additional funds, because the planned $51 million renovation does not include funding to address the security needs of the building. The project's costs have ballooned by more than $10 million, due to the need to relocate the Veterans Affairs offices to four different locations in downtown Roanoke for up to 3 years, posing logistical concerns and inconveniencing veterans, many of whom are disabled.

Many concerns have been raised about the disruption of the processing of claims, inadequate work facilities, problems with employee morale, files being separated in five different locations. The central file storage will remain in the Poff Building while the construction is going on, while the walls of the building are off of it for periods of time. The files will have to be shuffled around between different floors in order so that they are not exposed to the environment. There are serious problems with what is being planned for this process.

I have received many complaints from veterans organizations and individual veterans, as well as from many employees in the building. In fact, one local veterans organization filed for an injunction, seeking to block the relocation of the Veterans Affairs office while the renovation project proceeds.

I have called for the project to be halted, because I do not believe it is worthwhile. Failing that, my faith in the GSA remains deeply shaken, and I hope that this public hearing will offer additional opportunities to understand why the Poff Federal Building project has been conducted in such an unconvincing manner to date.

Thank you, Mr. Chairman.

Mr. DENHAM. Thank you.

Now the Honorable Brian Miller, inspector general, U.S. General Services Administration.

Mr. MILLER. Thank you, Mr. Chairman. Good morning, Chairman Denham, Ranking Member Norton, distinguished members of the subcommittee. Thank you for the opportunity to testify here this morning.

My office reviewed the Poff Federal Building in Roanoke, Virginia, and found that GSA awarded the contract without adequate price competition, in violation of the law. This hearing asks the question: "Are taxpayers paying too much for the renovations to the Poff Building?" The answer is we cannot tell, and we cannot tell because of how GSA awarded the contract. GSA set the price for construction, instead of using competition. Without competition, we cannot gauge whether the prices are fair and reasonable.

Additionally, GSA did not obtain an independent cost estimate to evaluate price reasonableness. Thus, GSA did not follow the proper procedures for ensuring fair and reasonable prices for the Poff Federal Building.

On top of all this, we have an untimely and ineffective cost benefit analysis. A cost benefit analysis compares alternatives of building a new building, or renovating an existing building. This is done as part of the decisionmaking and planning process to inform the decision that is ultimately made later. GSA, however, performed its cost benefit analysis after the decision had already been made, and the contract awarded.

Even the amounts of Federal dollars spent on this project do not seem to add up. This project was listed on the Recovery Act's spending plan at $51 million. As of April 6th of this year, however, the contract amounts for the design, construction, and management of the Poff Building reported in the Federal procurement data system were $52.3 million, an increase of over $1 million.

The Poff Building is not the only project where competition was lacking. We have identified six Recovery Act projects where GSA violated the Competition in Contracting Act by incorrectly using the construction manager as constructor methodology. I will refer to that as CMC.

In each case, the construction price lacked price competition, as it was either set by GSA or set through sole-source negotiation with the contractor. In each case, the Competition in Contracting Act was violated.

My office has recommended that GSA institute a system of management controls to ensure that contractors, using the CMC methodology, meet competition requirements. In response, GSA has developed a corrective action plan. The plan includes standardizing the CMC methodology, issuing guidance, and providing training to GSA project and contracting staff, and having CMC procurements reviewed on an annual basis. GSA has begun to implement these corrective actions by issuing a standard contract template and guidance for CMC contracts. However, other steps are yet to be completed.

GSA has an obligation to spend the taxpayers' money on sound, well-thought-out projects that make the best use of taxpayer dollars. Our reviews show that GSA does not always meet this obligation, and did not do so here, at the Poff Federal Building.

I welcome any questions the subcommittee may have. Thank you.

Mr. DENHAM. Thank you, Mr. Miller.

Mr. David Ehrenwerth, regional administrator, U.S. General Services Administration. You may start your testimony. Thank you.

Mr. EHRENWERTH. Thank you. Good morning, Chairman Denham, Ranking Member Norton, and distinguished members of the subcommittee. I very much do appreciate the opportunity to come here today and discuss this really exciting renovation of the Richard H. Poff Federal Building and courthouse in Roanoke.

This absolutely critical project, which is funded by the American Recovery and Reinvestment Act, is a much needed investment in the GSA inventory that is going to keep a core, long-term asset functioning, while increasing its performance and its energy efficiency. This building modernization is part of our commitment to help the Nation's economic recovery by investing in aging infrastructure while creating jobs in local communities.

As a responsible asset manager, GSA must ensure that our buildings are well-functioning, safe, and welcoming for all tenants and visitors. We have expertise in effectively managing building operations, and responding to the concerns of our occupants.

The Poff Federal Building, which, as you have heard, houses the Department of Veterans Affairs and the courts, is 36 years old, and has never had a major renovation. The building is really in need of significant repairs to ensure that the building operates efficiently

and provides a workplace environment that helps these crucial tenant agencies meet their missions. A modernization of this facility is simply the most cost effective way to meet the government's housing needs in Roanoke.

The Poff Federal Building was categorized as an under-performing asset in GSA's inventory. Our building surveys and studies show that significant reinvestment is needed to repair this aging building. The Recovery Act provided us with the opportunity to invest the funds necessary to update the building systems and features with high-performance ones. Once this project is complete, the building will be a performing asset with an anticipated strong financial return, while satisfying the long-term customer needs. This project will extend the useful life of the building, and will improve public accessibility, while keeping Federal workers in owned and not leased space.

Specifically, this renovation includes replacing the inefficient, poor quality, and leaking single-pane glass curtain wall with a new energy-efficient curtain wall that will better regulate the building's internal temperatures, and reduce operating costs. Currently, the windows are so bad that some of the tenants cannot even see out them, including our marshals.

The project will also replace the deteriorating roof with a solar system to generate electricity. This new roof will prevent heat build-up and reduce the building's air conditioning load. Additionally, this project will improve the building's lighting and mechanical systems with new, energy-efficient systems and technologies. We are replacing failing building systems that have simply reached the end of their useful life, including the heating, ventilation, and air conditioning systems.

Currently, half of the tenants in the space are hot, while half of the other tenants are cold, often on the same floor. A new system must be installed to improve building conditions and reduce further repair costs.

GSA is also addressing deficiencies that impair our tenants' ability to serve the public, particularly the Veterans Administration and the veterans that they serve, which occupies about half the building. We are improving the accessibility for handicapped individuals. We are renovating public restrooms to better serve our Nation's disabled veterans who visit this building, by meeting the Architectural Barriers Act accessibility standards, which is the Federal equivalent of complying with the Americans with Disabilities Act.

Additionally, the floor structure will be strengthened to ensure that it is capable of safely supporting the current and future weight file needs of the VA, a crucial activity.

GSA wants to ensure that we pursue this project in partnership with the community and to help create jobs. I have participated in a number of meetings and forums in Roanoke, including one with the city council of Roanoke, to explain the benefits and opportunities of the project, and why we are pursing it. The very enthusiastic response we received was quite gratifying.

In these forums I have discussed the importance of ensuring that GSA assist the general contractor, Balfour Beatty, in outreach to the community and seeing where there might be opportunities for

subcontracting participation. And there are many. Balfour Beatty has held a number of small business forums on its own, including one just this week with veterans groups and others. And they will continue to do so throughout the project to help engender the participation of local businesses in subcontracting.

The design of the Poff Federal Building is now complete. The swing leases have been awarded. And construction begins this summer. The investments in the Poff Building will help stimulate job growth, increase building performance, and transform the Poff Federal Building into something it is not now, a welcoming, sustainable, productive workplace for Federal employees and for the public who come to this building to receive necessary and important services.

As I said at the beginning, I greatly appreciate the opportunity to come here today, and to discuss this important investment. And I welcome any questions you have.

Thank you.

Mr. DENHAM. Thank you.

And now, Ms. Julia Dudley, clerk, U.S. District Court for the Western District of Virginia. Welcome.

Ms. DUDLEY. Good morning, Chairman Denham, Ranking Member Norton, and esteemed members of the subcommittee. I am the clerk of court for the Western District of Virginia. And I appreciate you giving me the opportunity today to come and give testimony of the impact this project is going to have on the operations of the court.

Last July, the clerk's office moved from the third floor of the Poff Building into renovated space on the fifth floor. This move, in itself, was a long time coming. The move put 24 of my staff members into contiguous, well-designed, and functional space. The environment of the office—the morale lifted, the staff is very, very happy with our new space. It is a significant change from the chopped-up, cramped, and dysfunctional space we once occupied.

The new space also provides a private office where attorneys and the public can access a public computer terminal. And there they can file pleadings, they can check court records. We also have an appropriately sized and comfortable assembly room for our jurors and grand jurors, and also for the citizens-to-be where they can wait until a naturalization ceremony begins.

However, by this summer, we will be relocating staff around and within our space to accommodate the replacement of windows, lights, and the HVAC system, all part of the ARRA project, as we call it.

GSA has hosted numerous informational meetings with the court family. These meetings have been good. The GSA project manager and other project participants have walked us through the phasing and construction details of the project. GSA has also been very responsive to our requests to accommodate the operational needs of the court. However, once the ARRA project begins, and for its duration, we will again occupy chopped-up, cramped space, and lose privacy and functionality.

Neither the clerk's office nor the probation office nor the four judges whose chambers are located in the Poff Building will move during this project. Not that we elected to stay in this space, but

because of lack of rentable space with courtrooms in the Roanoke area. So, instead of moving away from the construction, we will stay put throughout the 3 years, or however long it takes to finish the construction, as we carry on with our duties.

Some of the direct impacts of this project will be: lost work time as we shuffle and relocate within our own spaces; additional work for our IT department; reduced courtroom capacity—we will lose the magistrate judge's courtroom for approximately 12 months to however long during one phase of this project. Also, work on the mechanical, electrical, and plumbing will go on every day on every floor throughout the project. Noise, dust, the presence of workmen will be a distraction to the staff.

There likely will be temporary loss of power, heating, air conditioning. There could be a disruption to our security system and our IT infrastructure. The cafeteria in the building closes during the project. Because the windows will be blocked by temporary walls, we will lose some of the natural lighting in our space. The employees who are now in offices along the perimeter of the building will be relocated to temporary cubicles constructed within the interior of our office. It is like we are all squeezing together, and we will have to learn with inconvenient clutter for the next several years.

Gone will be the private office for where the computer terminal is located. Gone will be the appropriately sized and comfortable room for our jurors, grand jurors, and citizens-to-be. Additionally, the probation officers will have to move out of their offices into temporary structures that will afford little privacy to the officers and the clients who must visit them.

My staff, just as all Federal employees, have been asked to conserve materials and cut back on spending. Now, we are being told that we will have to endure much disruption and distraction for the next several years while at work. With GSA being unable to relocate the court to outside space, the court and its related agencies will be the only occupants coming to work in what essentially will be a largely empty 14-story construction zone. No doubt you can imagine the impact this will have on the morale of the staff.

Though I fully expect my staff to weather this construction period and continue to give services to the court and to the public, disruption of the work environment and our operations is just a fact of construction life. As with any construction project, you go into it with high hopes that the result will be good. However, you also have anxiety and uncertainty as to how long the project will actually last. But we are trying to keep the end in sight, and that end will be, hopefully, windows we can actually see out of, heating and air conditioning that works well, and a return to appropriate and functional space.

Thank you for your time. I would be happy to answer any questions.

Mr. DENHAM. Thank you, Ms. Dudley. I would at this time ask unanimous consent that our witnesses' full statements be included in the record. Without objection, so ordered.

We will have two rounds of questioning this morning. We are going to keep a real strict time limit on the 5-minute rule. I would like to start, first of all, with Representative Goodlatte.

You have been—you have done a lot of work investigating this topic, this project. From what you have found, do you believe GSA got the best deal for the taxpayers, and could you expand on——

Mr. GOODLATTE. Well, thank you, Mr. Chairman. As Mr. Miller says, we will never know what the best deal was. But, as the Ranking Member pointed out, on a multitude of these projects around the country, bids have come in lower than was anticipated. That did not take place here, because the GSA broke the law and who knows how much the savings might have been—$10 million, $15 million.

And that just is—in terms of the cost of this project, there was no cost benefit analysis done to determine whether not doing this building or doing this project in a completely different way would have been more effective, and addressed the needs of the tenants. We have heard from the clerk of the court. The VA has an even bigger problem, in that they are dispersed to four different locations, while their files remain in the construction zone.

I call your attention to all members of the committee. This is the cost benefit analysis that was done after the decision was made. Two small paragraphs on this page, and two columns of figures on this page, and some of the assumptions made here—I would love to have the committee ask some other contractors or architects or engineers whether, if you built a new building, your energy costs would be identical to this building.

It seems to me—and I am not an architect or engineer—but if you build a new building, the energy efficiency with new materials and new design is going to yield savings that are not achieved here. And yet, even after they are all done with this, the savings over the life of the 30-year projected life of this is only $8 million out of $111 million that they are talking about.

In addition, the alterations, both by the building owner, the GSA, and by the tenants are estimated to be the same. The construction costs are estimated to be vastly higher for a new building, and yet there is no documentation of that. And the design costs are double. But I think they have put an awful lot of effort and energy into the design of this building for not much benefit.

Mr. DENHAM. And could you also explain how the law was broken in this case?

Mr. GOODLATTE. Yes. As the inspector general discovered, the GSA transmitted to the bidders the maximum amount that the government was willing to pay on the project, prior to the bidding taking place. That, I think, resulted in all of the bidders bidding that maximum amount. And did we lose $10 million, $15 million? I do not know how much we lost. But clearly, this was not done properly, and should have been done properly, and perhaps still could be done properly. But it is very disappointing to me and to my constituents.

Mr. DENHAM. And, Mr. Miller, as you look at GSA contracts, is this typical, where the max bid is given out, or is it a more competitive process, secret bid process?

Mr. MILLER. Mr. Chairman, the GSA is required to get competition under the Competition in Contracting Act by not getting—by giving out the maximum guaranteed price, they essentially did not get competition for this project, in violation of that act.

They have had this problem in other projects. I have listed six of those projects in my written testimony. And they are primarily connected to the use of this vehicle, the construction company as constructor methodology. And that methodology does have its virtues, which perhaps Mr. Ehrenwerth would like to explain. But it does create problems if it is not used correctly. And one of the chief problems is no competition, sole sourcing, and the result is taxpayers do not get their money's worth.

Mr. DENHAM. But in this case there was competition. You had 10 bidders, correct?

Mr. MILLER. There was—first of all, there was competition at the design phase, and that is $225,000 worth. So there was some competition. But the bulk of the project, the $39 million worth of it, the bulk of the project was not adequately competed, because they gave out the maximum price. And all the contractors, not surprisingly, put in the maximum—guaranteed maximum price. So there was no competition there, they all put the same price in, the price they got from GSA.

Mr. DENHAM. And how many bids came in on the final process?

Mr. MILLER. I am not aware of exactly how many bids came in, but they all bid the same amount, so the competition element was not there.

Mr. DENHAM. Mr. Ehrenwerth, how many bids came in in the final process?

Mr. EHRENWERTH. I can confirm that to you. I believe it was 10.

Mr. DENHAM. Would that have completed the entire process?

Mr. EHRENWERTH. No, it did not. If I might explain how this works to you——

Mr. DENHAM. Briefly, and then we are going to go on to other questions, and I want to follow up on this on the second round, as well. But if you could, briefly——

Mr. EHRENWERTH. Well, thank you. I respect and admire your interest in this, as well as the IG's, from whom we learn often.

But the way this works, which I think is crucial to an understanding of the process, is that we use this construction method to get the contractor in earlier, to collaborate in the design, to have efficiencies and cost savings. It is true, as the IG points out, that, as we acknowledge, the guaranteed maximum price was not appropriate, and we are changing that.

But what is missing from that analysis is that the vast, vast majority of the work on the project is accomplished by subcontractors who always were intended to be competitively bid in an open process, and under our contracts and procedures, all the vast majority of that saving is recouped by the government.

So the bottom line of all of this is that there will be a competitive bidding of virtually the vast majority of this project. And the vast majority of that saving, after a small incentive to the general contractor to make sure we get the best and cheapest prices, will go right back to the Federal Government.

So, the procedures, while clearly needing to be modified, are designed to preserve the best product for the best price, and get any savings back to the government.

Mr. MILLER. Mr. Chairman, if I could, very briefly? The——

Mr. DENHAM. Very briefly.

Mr. MILLER. It is better to compete it upfront, so that you get the savings upfront. There may be some savings later on with subcontractors. Any savings, however, would have to be shared with the contractor, itself, so that that savings is——

Mr. EHRENWERTH. Well——

Mr. DENHAM. Thank you, thank you. We are not going to get into a debate here, but I would like to follow up on this on the next round of questioning.

At this time I would like to turn it over to Ranking Member Norton.

Ms. NORTON. Mr. Ehrenwerth, you began to explain the agency, but I just want to say for the record I found your testimony wholly unresponsive to the subject matter of this hearing. This hearing is not about the project and its strong points and energy conservation. It is not about the local community—and I congratulate you on all of that.

The very serious question is raised about the price competition. And the subcommittee, we have had some concerns about price that have emerged over time. For example, we have supported best value, because of the technical details and the need to take everything into account. But increasingly, best value does not seem to take price enough into consideration.

You need to explain, first of all, if six projects were done, were these all six Recovery Act projects that were done using this?

Mr. MILLER. Yes.

Ms. NORTON. Yes, says Mr. Miller. So, all the other projects—none of the other projects uses construction manager approach?

Mr. MILLER. All six do.

Ms. NORTON. None of the other projects. They have 200-some projects. None of your other projects use this approach to the renovations that you know of, Mr. Miller or Mr. Ehrenwerth?

Mr. EHRENWERTH. The technique is a standard one for the good purpose, as I believe, as I indicated——

Ms. NORTON. All right. If six used it——

Mr. EHRENWERTH. Right——

Ms. NORTON. I have 5 minutes. If six used it, Mr. Miller, do you know of any other of the 275 or so that also used this?

Mr. MILLER. There are others, and they are under review currently.

Ms. NORTON. Other than the six?

Mr. MILLER. Yes.

Ms. NORTON. All right.

Mr. MILLER. And it is——

Ms. NORTON. Then we got to get at the root of this, because you concur, Mr. Ehrenwerth, with the inspector general. And you did so without much explanation. And you say that savings occurred—this time, certainly, you say—at the subcontractor level. If that is the case, then I want to know what was the disadvantage of proceeding with the usual competition for this project?

Mr. EHRENWERTH. I think there are——

Ms. NORTON. Or perhaps put the other way, what was the advantage of proceeding in this way?

Mr. EHRENWERTH. I believe the advantage of using this method was to have a coordinated approach between the contractor and the design process, so that it was effective and efficient——

Ms. NORTON. Did you anticipate that putting a price out there would mean that every single bidder would come up with the same price, implying no competition whatsoever?

Mr. EHRENWERTH. Let me try to explain that the price, of course, was not picked from thin air. The price was the result——

Ms. NORTON. No, I understand that.

Mr. EHRENWERTH [continuing]. Of all the estimates that——

Ms. NORTON. You know what? That is what—I understand that. But there is a marketplace out there, and people anxious to get work. So, when the government says, "Here is the number," why in the world—and who knows, they may have been talking to one another, because we will never know that—but why does that encourage competition?

Mr. EHRENWERTH. I think that we agree that that approach of the guaranteed maximum price should not be used in the future.

The point I was trying to make, however, is that the process that was established—let's understand that well over 80 percent of the price is really established by what subcontractors bid. And let's understand that——

Ms. NORTON. So if that is the case, you see, I have a problem understanding why we ever, then, use competition on the front-end of a project.

Mr. EHRENWERTH. Oh, I have agreed with you, I think, that that is—best guaranteed maximum price, which is the maximum price, not the price that will be paid, and what I have been trying——

Ms. NORTON. You have given no explanation as to why you have used this construction manager price approach. Have you no justification for it?

Mr. EHRENWERTH. It is a—the construction management contractor approach, as distinct from the guaranteed maximum price, which was part of it, is highly used, and a well-established, efficient——

Ms. NORTON. Oh, yes. I am talking about construction manager approach.

Mr. EHRENWERTH. Well, that approach, without the guaranteed maximum price, is well established to create efficiencies and effective ways to design and build a building.

The guaranteed maximum price, which was utilized here in the context of the Recovery Act to move these projects along and create jobs, is clearly not one that we should use, as the IG said, and we are correcting that. I am not trying to justify it. I am trying to explain that through the subcontracting process, we believe that the vast majority of—if there is any excess amount in that guaranteed maximum price, which was the result of very substantial GSA calculations, the vast majority of that will be recouped through the subcontracting price, and we will not be using that guaranteed maximum price in this context again.

Ms. NORTON. Mr. Chairman, my time is up. Could I ask, though, since we have learned that there are even more than the six that may have used this form, this construction manager form, and we have been told that there is going to be savings to the government

from the subcontracts, that on each of these projects, the six and any others that are found, the savings or, if no savings, be reported to the chairman of the subcommittee, be shared with the subcommittee?

Mr. DENHAM. Thank you.

Mr. EHRENWERTH. Happy to do that.

Mr. DENHAM. Thank you. The chair now recognizes Mr. Hultgren for 5 minutes.

Mr. HULTGREN. Thank you, Mr. Chairman. Let us start with Mr. Ehrenwerth, just a couple of questions, if that is OK.

Current estimate for the renovation of the Poff Building is $51 million. Just wondered, does that include cost for temporary space for VA? And, if not, what are the costs associated with swing space, including moving costs?

Mr. EHRENWERTH. No, Congressman, it does not. As was pointed out, it is crucial to us that the remodeling and modernization occur in a way that does not disrupt tenants. So, in collaboration with the VA and all involved, we have set up an arrangement where there will be four temporary swing space locations established in a manner to serve the VA and that has a cost to it. One has to move in there, pay rent, in lieu of, of course, what would be paid in the Federal building. So there is a cost of an additional $10 million, approximately, for all that process.

Mr. HULTGREN. So it is $10 million for the space, including moving costs?

Mr. EHRENWERTH. A lot of it is dependent, of course, in terms of how long we are there, because we pay rent at new space depending on how long we are in the new space. If it is shorter, it will be less. If it is longer, it will be more. But the overall project is in the $10 million, plus or minus, range.

Mr. HULTGREN. OK. Including the moving——

Mr. EHRENWERTH. For what we are talking about, the——

Mr. GOODLATTE. Congressman Hultgren, if I might add, I do not believe that does include the $3 million cost of moving the VA out to these four locations and moving them back.

Mr. EHRENWERTH. Oh, I am sorry. Would you like me to analyze the——

Mr. HULTGREN. No, I just wanted to know the cost of it. So it is $10 million for the rental of the space, and $3 million——

Mr. EHRENWERTH. The rental of space——

Mr. HULTGREN [continuing]. For the move to the four other spots, is that right?

Mr. EHRENWERTH. The rental—Congressman Goodlatte makes an appropriate point. The rental of the space, the build-out of what we need to do to make the VA function, and so forth, is in the $10 million or small amount more than that range.

There is a cost to move, and to coordinate the move, and to do all that goes with that. Very complicated move. That could be another $4 million, roughly.

Mr. HULTGREN. So $4 million for the move. OK.

According to the GSA inspector general, current GSA data indicates that the Poff Building renovation has already exceeded the amount listed in GSA's Recovery Act spending plan. How do you

account for this increase, and what assurances do we have that the cost will not increase further?

Mr. EHRENWERTH. That, I believe, is an accounting bookkeeping entry. We have not expended, and do not intent to expend more money than is budgeted. The vast majority of it is in our Recovery Act major fund. There is a separate fund for which the other part is budgeted. All—I would be happy to very transparently convey all of this to you, but there is no expenditures that are not covered in our budgeted plans.

Mr. HULTGREN. Congressman Goodlatte, do you have a comment on that?

Mr. GOODLATTE. Thank you, Congressman Hultgren. First of all, the reason why we have $10 million plus $3 million plus we do not know how much more, is because there was not proper planning done in advance, and a proper cost benefit analysis was not done in advance.

Secondly, there are major security issues with this building. And it is agreed that those are going to have to be addressed. No plan has been put forward on how it is going to be addressed, or who is going to pay for it, and how much it is going to cost. But that is also an additional substantial cost that is not accounted for at this point.

Mr. HULTGREN. Well, that is something I wanted to ask, as well. With the security questions of the move here, I wondered how that is going to be addressed, and wanted to make sure we get a commitment from you to brief us on these security issues and what GSA plans are to remedy security issues.

Mr. EHRENWERTH. Well, you certainly can have that commitment, Congressman, and we are happy to brief you.

We have worked very closely with Homeland Security, with Federal Protection Service, with the marshals, with the judges, to make sure that this building is safe and secure. Remember, we are doing this with Recovery Act funds that have specified purposes to the extent that—and there is no security issue that makes this a high-risk building, based on all we have been told by the experts.

To the extent security upgrades are appropriate or necessary, separate funding is being sought for that.

Mr. HULTGREN. Congressman Goodlatte, it looked like you maybe had something to say on that.

Mr. GOODLATTE. Let me just—some of this you might want not to discuss in a public hearing, because we do not want to go into too much detail about what those——

Mr. HULTGREN. Well, and that is fine. I do think we need to get this information, though, to our subcommittee, at least. But——

Mr. GOODLATTE. Some of these issues have been raised publicly. This building is vulnerable. I have attended meetings of the security committee, which is a group of representatives from the various agencies that are in the building, none of which have authority—nor does this committee have authority—to act, unless the parent agencies provide agreement and funding to proceed.

And so, to put money into a building that has this kind of a problem and not have a plan to address these major security concerns which exist right now at the building—and Homeland Security and others responsible for security in the building will tell you that, the

U.S. Marshal's office and so on will tell you that right now—is, I think, irresponsible.

And the construction project is about to move forward. The court is still going to be operating there. There are going to be lots of unusual activities taking place on a construction site, and there is no coherent plan to address the security during that part of the process.

Mr. HULTGREN. My time is up. I yield back.

Mr. DENHAM. Thank you, Mr. Hultgren. Mr. Ehrenwerth, what is the security level of the building?

Mr. EHRENWERTH. I am sorry, could you repeat that?

Mr. DENHAM. What is the security level of the building?

Mr. EHRENWERTH. I am not sure I understand your question. The building is deemed to be appropriately secure for a courthouse. Every courthouse can be improved. There are things to be——

Mr. DENHAM. There are different security levels, as I understand it, for—depending on——

Mr. EHRENWERTH. Oh, for different Federal buildings?

Mr. DENHAM. Yes.

Mr. EHRENWERTH. Let me inquire.

Mr. DENHAM. Number five is the White House. Is it the same as the White House?

Mr. EHRENWERTH. It is not——

Mr. DENHAM. Is it a four, then?

Mr. EHRENWERTH. It is not like the White House. There are——

Mr. DENHAM. Is it a level four?

Mr. EHRENWERTH. I do not have the information in that context for you. I would be happy to get it for you.

My point simply was that, in collaboration with all the affected parties, we regularly address security and——

Mr. DENHAM. And it is not my time right now, but my point is I am just—I am alarmed at not knowing, first of all, what level of security it is. But, secondly, I would want to make sure that whatever the current level of security is, that the temporary facility is that same level of security or higher, so that we make sure that the good folks of Congressman Goodlatte's district are safe.

Mr. EHRENWERTH. Absolutely.

Mr. DENHAM. And now I will recognize Mr. Gibbs for 5 minutes.

Mr. GIBBS. Thank you, Mr. Chairman. Mr. Ehrenwerth, I assume that you are the guy that signed off on all this. You are in charge, right?

Mr. EHRENWERTH. Well, I am the regional administer. GSA has a number of people that approve what goes on, some of which occurred before I got here, but I am——

Mr. GIBBS. How long have you been in this position?

Mr. EHRENWERTH. I have been here since last August.

Mr. GIBBS. Last August?

Mr. EHRENWERTH. Yes.

Mr. GIBBS. What did you do before that?

Mr. EHRENWERTH. I was a partner at a law firm specializing in real estate development law for 35 years.

Mr. GIBBS. OK. I have a lot of concerns. I mean this is really embarrassing, I think, that your testimony—to follow up on Congresswoman Holmes Norton, you know—is about the project, and all the

good things you are doing with the building. But, you know, you broke the law, as far as I am concerned.

Did you do a cost benefit analysis if we should sell the building, versus renovate? Whenever I do a project—I do some stuff back home in Ohio—you know, I determine if it is worth putting the money in an old project, or to build it new. Did you guys do an analysis?

Mr. EHRENWERTH. Absolutely. I am very glad you asked that question, because I think we may have not focused enough on the fundamental question here. We are, at core, an asset manager. The first question we ask: "Is this an important asset that, if an amount of money that is rational is spent on it, will extend its useful life to make it an effective building at a much lower cost than building a new building, or any other alternative?" And we looked at it closely, and the answer was a clear yes.

The reason for that is it would cost twice as much to build a new building, and the building simply could not continue to function. And if we did not spend this money, it would deteriorate further, the cost would be greater, and there was simply no alternative. It was suggested also, for example, that we sell the building to some private developer and let that person spend the money. Well, I have been in the real estate legal world long enough to know that any developer who would do that would have to make a profit. So, you have all the costs that we have, plus his profit. And at the end of it, guess what? We do not own the building. So, none of those alternatives made sense.

Mr. GIBBS. Well, I think that is questionable. I think my colleague wants to respond to that.

Mr. GOODLATTE. Well, I think the claim that a cost benefit analysis was done is simply not accurate. The fact of the matter is no cost benefit analysis was done prior to the work. The inspector general has confirmed that. And if you call this a cost benefit analysis, I think that any private entity making the kind of decision that you are talking about here, involving the expenditure of $65 million or more, would spend a little more effort and a little more energy in doing it.

And then, I think it is worth looking at some of the conclusions they have drawn in here, saying that, for example, the energy efficiency on a retrofitted building will be the same as a new building of the same amount of square footage.

It also does not address the needs of the United States District Court—and perhaps the clerk would like to address it—but they have specific needs that are not addressed in this building, and will not be addressed after this retrofit. And the VA has told us the same thing. So, while this is definitely, you know, going to improve the building, the cost benefit analysis has not been done.

And one of the big advertisements in green energy—the local newspaper, The Roanoke Times, did a Freedom of Information Act request, and finally got some information on which to do some analysis of the energy savings involved here. And one conclusion was that it could take as long as 218 years to achieve a payback on the energy savings in this building. Now, I do not know if it would be that long, but clearly that is way beyond the life of the building or the equipment that will be put in the building to

achieve that energy efficient. I do not think a cost benefit analysis was done.

Mr. EHRENWERTH. If——

Mr. GIBBS. Go ahead.

Mr. EHRENWERTH. If I just might clarify one thing, remember now, the base reason we are doing this is because the systems are no longer operational. We need to act to improve them, or this building will not be viable.

As a bonus of that, there are various energy efficiencies and sustainable goals. That is not why we are spending all this money. We are spending all this money to make this building a strong asset for many years to come, which we have done, in collaboration with the VA and the local courts.

And, by the way, I have just been advised that the building is level four, and of course all the contracting staff is cleared by the Department of Homeland Security. We are taking every step——

Mr. GIBBS. This is my time. I am very concerned. I think, Mr. Chairman, that, you know, obviously there was not competitive bidding done, there was not a cost analysis study done that, to my level, that should be. And I think that, you know, the first thing that comes to my mind is just plain incompetence.

And then, if it is not incompetence of how this has been handled, it really does kind of smell of how the use of the stimulus dollars was used. And, you know, and I think we really—I do not know if the inspector general—this might be a question for the inspector general. Will there be more investigation, because this was a political favors payback with stimulus money? Because this thing really, to me, smells.

Mr. MILLER. Congressman, we are reviewing other uses of the construction company as contractor. They are under review. We are currently working with the Public Building Service to find out the root cause, the root problem involving the construction manager as contractor, and we have had discussions with the commissioner of the Public Building Service, which is—who is the highest ranking member of the Public Building Service. And we are currently working with him and the Service to find out what is causing this.

One of the—I am sure Mr. Ehrenwerth would confirm that one of the virtues of the construction manager as contractor vehicle, as far as it concerns the Federal Government, is that it gets the money out quickly. It commits it quickly, the money gets obligated quickly.

Mr. GIBBS. My time is up.

Mr. DENHAM. Thank you. The chair now recognizes Ranking Member Norton for 5 minutes.

Ms. NORTON. The ultimate cost benefit analysis for this committee has always been will we end up leasing, where the money goes to a private contractor forever, just as what happened in the Transportation building, located right here in this city.

Representative Goodlatte, we have a letter from January the 7th that you wrote to Mr. Ehrenwerth, where you said you had received a letter from a constituent, Mr. Jake Kofter of Feldheimer Commercial Real Estate. You met with Mr. Kofter regarding his proposal for a private alternative to the government's renovation of the Poff Federal Building. And you even say in your testimony that

there were a number of alternatives that could be less expensive and more effective, including not doing major renovations, selling the building, et cetera. And you point to the OMB analysis.

I am not sure, Mr. Goodlatte, if you are aware. This building would have been amortized, had it been sold, over the first term of the lease—usually that is about 15 years—you are talking about selling the building, a building we own, to another owner on a lease-back arrangement, which you seem to favor for your constituents, which would mean that the Federal Government would then pay rent on a building it once owned.

And if the experience of this committee is any guide, particularly since, in effect, we would have paid for the renovation anyway, we will pay for the rent, and the building, and, at the end of the lease, we will go again. We will lease it again. Because, after all, we have made a considerable investment in it. It is as if you had a house, it needs a lot of repair, but you say to somebody else, "You repair it, and I will lease it, and I will keep leasing it for my life and for the life of everybody in the—who wants to live in this house."

Now, this has been one of the great wasters of money of the Federal Government. The Transportation building is a prime example of it. We are not going to move from that building. But because of the way in which scoring works, we are in the outrageous position of, in effect, leasing back the building that is the headquarters building we will never move from.

Whatever they did wrong—and I certainly have nothing to say about what—nothing good to say about what the GSA did—I must say——

Mr. GOODLATTE. Congresswoman——

Ms. NORTON [continuing]. I find your proposal even worse.

Mr. GOODLATTE. Congresswoman, may I respond to that? Because that is not my proposal at all.

Ms. NORTON. Well, you say it even in your testimony, Mr. Goodlatte.

Mr. GOODLATTE. Well, let me respond, if I might. First of all, I received inquiries from constituents about what was going on. One individual came to me and said, "We think we have a better idea. We forwarded it to the GSA."

We are not advocating that. We are saying that a cost benefit analysis should have been done that took into account all of the different options that were available, including the option proposed by anybody—not that particular individual, because this would have been done before this all ever took place—but anybody could certainly have an idea. No such study was done by the GSA to make any determination about that.

If you talk to people who are in the building, they will tell you that that building does not suit their needs. So one option would be to sell the building and use the money that was made available here to do something different, whether it is to build a new building or to build a courthouse and move the VA to a different facility. There are lots of different options that were not——

Ms. NORTON. We do not know that, Mr. Goodlatte. We do not know if, you know, if——

Mr. GOODLATTE. We do not know any of that.

Ms. NORTON. Go around Roanoke and just do a new building. We know that they have invested in this building. Your options were not doing major renovations—I think we can cross that off. The courts, the vets who were seriously dislocated, all agreed that this was not a suitable facility. Selling the building with us leasing it back, do you understand that that would not have been a viable alternative for the taxpayers?

Mr. GOODLATTE. I think that there are different alternatives in——

Ms. NORTON. Would you—I am asking about this one, Mr. Goodlatte.

Mr. GOODLATTE. Well, look, I do not know whether that is a good alternative or not, because no effective study was done to determine whether or not any of these alternatives made more sense than what was decided to do here for a project that was supposed to be shovel-ready, and here, 2½ years later, they have still not begun construction on the project.

So, the fact of the matter is that, like you, when I get inquiries from constituents I forward them on to the agency so they can consider whether they are good ideas or not. That in no way, shape, or form, constitutes——

Ms. NORTON. Well, I am glad you do not endorse selling——

Mr. GOODLATTE [continuing]. Any particular idea.

Ms. NORTON. I am very glad you do not endorse what would clearly have been the worst of the alternatives, Mr. Goodlatte.

Mr. DENHAM. Thank you. The chair now recognizes Mr. Hanna for 5 minutes.

Mr. HANNA. Good morning, everyone. I have been in the building business for about 30 years, probably bid 2,000 jobs in my life. Been pretty successful. The one thing I have learned about the business is that competition is not only free, but it is your friend. And when you exclude it, you automatically get something different than the optimum outcome.

I am curious, Congressman. What would be your remedy to all this, if you had a chance to do it all over right now?

Mr. GOODLATTE. First of all, I think you would do a cost benefit analysis of whether this building is worth putting $65 million into it when it cost $14 million to build just 30, 35 years ago.

Secondly, you would look at whether or not it makes sense, given the heightened security concerns that certainly have taken place in the last—certainly since this building was built, to determine whether it made sense to have the largest tenant in the building, the Veterans Administration office, having a key role in determining security issues with a United States District Court, which has very, very different security concerns.

And it would make sense to me to look at whether you would move the court out and build a smaller building to house the court, and make some renovations to this building, and give the VA more space, which they say they will need, even after this process is conclude. Those would certainly be good alternatives.

Given the economic environment that we are in today, and given the fact that this building is functioning, I would think that a very legitimate thing to consider would be to not do anything major with

these dollars right now. Rather, take the time to figure out what the long-term needs are.

I think what happened here is that the GSA had a building that they want to keep, clearly, and they suddenly had a lot of money made available to them. This building generates—I believe, if you look into it—a net revenue to them, because the tenants in the building, the court and so on, make their books look better. Why not take free money and put it into an old building, regardless of the cost, and let us keep that revenue stream flowing?

None of that was properly openly analyzed and reviewed before this decision moved forward and was made.

Mr. HANNA. So it is safe to say that you are not here with any particular predisposition, you just would like to maximize the opportunities to find the best outcome.

Mr. GOODLATTE. That is correct.

Mr. HANNA. Mr. Ehrenwerth, do you think that because of the stimulus package and the rush to get that money out there for what was generally regarded—and hopefully were shovel-ready products—projects, do you think that that was a cause for this type of sloppy process, which I think we would all agree is?

Mr. EHRENWERTH. Well——

Mr. HANNA. A less-than-optimum. How is that?

Mr. EHRENWERTH. Well, certainly there is always room for improvement. The Recovery Act in this particular case, and in all cases that I am aware of, is creating a lot of jobs and doing a lot of necessary work on our properties.

It is agreed, as we told the IG previously, that we agree with his criticism with respect to the guaranteed maximum price. That is being fixed.

But at the bottom line, the end of the day, this is a very needed project that will be done for an appropriate price, and our subcontracting process will ensure that. So I think we are very convinced that it is the right thing to do to move forward.

Mr. HANNA. Is it possible to start over?

Mr. EHRENWERTH. I think it would be—anything is possible, of course. But it would be a waste of funds, it would delay the project, and it is a much-needed project. So I do not believe we should start over, no.

Mr. HANNA. I yield back.

Mr. DENHAM. Thank you. The chair now recognizes Ranking Member Norton for 5 minutes.

Ms. NORTON. Thank you, Mr. Chairman. Mr. Ehrenwerth, perhaps this is for both Mr. Miller and Mr. Ehrenwerth. This subcommittee is always concerned about the Federal building fund, which is one of the reasons that we look carefully before we decide to lease. We already have tipped the point now on leasing.

Will the rate of return to essentially the building fund, and therefore to the taxpayers, after the completion of this modernization of this building, be—what will the rate of return—than it is now, what will the rate of return be?

Mr. EHRENWERTH. I can get you specifics I do not have with me on the calculations of that. But I can say this, that the rate of return on a deteriorating building whose systems are falling apart is going to get worse and worse. With this expenditure, we believe

that over the life of this building, which will be, literally, generations, the rate of return will be much improved and very, very elongated as compared to not doing this.

Ms. NORTON. Mr. Miller?

Mr. MILLER. Congresswoman, problems existed prior to the Recovery Act, as well. And the Recovery Act did prompt GSA to fast-track projects, and they did not correctly follow the CMC (construction management contract), for example. The problems existed before, and will exist even after all the Recovery Act money is spent.

Ms. NORTON. But affecting the rate of return of the Federal building fund was my—yes. And I hope those problems will be corrected. I am asking about the Federal building fund. You are aware that the upkeep of this building, of buildings all around the United States so they do not deteriorate the way this building has, it depends upon whether or not the buildings pay into the Federal building fund instead of to a private developer. I am asking about the return to the Federal building fund.

Mr. MILLER. We have not evaluated the rate of return. The agency would have to provide data on that.

Ms. NORTON. Mr. Ehrenwerth, I wish you would, because that is of great concern to us. That building fund does not do what it is supposed to do now.

Mr. Miller, does the sale and lease-back of—is the sale and lease-back of a government-owned building, is that a good deal for the government?

Mr. MILLER. Congresswoman, that is a policy question that we do not usually get into. We would have to look at the facts and the numbers. It does seem odd to lease—to build a building to lease out and to buy back. That generally does not strike me as a good deal.

But it is essentially a policy area that I would leave to the policymakers——

Ms. NORTON. I guess I should add that, too. I could ask that to the average person walking down the street, frankly. It does not require much expertise. What we do want to make sure is if—is that whatever we do with buildings we own, in fact, gives us the best, the most competition, not the least. And that is the problem we are having here.

For the courts, I understand your concern, and I understand the dislocation. Some of the dislocation, I think, is what every homeowner experiences. When I renovated my kitchen, I could not believe it. And that, of course, is something that is the price of—and I do not mean the cost—of renovation.

But I would be concerned at how that price that the courts and especially the veterans, how it was handled. Now, there is concern, and Mr. Goodlatte raised concern about the cost of what is essentially swing space, the cost of moving people around. Ms. Dudley said she was pleased that they were able to remain in the building, especially the courts, even while she discussed some of the inconvenience.

Would you make us understand the cost, essentially, of relocation, and the files, and the swing space cost, and how much of that is taken into account when one renovates a building?

Mr. EHRENWERTH. Yes. Well, you raise a very good point, of course. The first basic building block is it is extraordinarily expen-

sive to move courts to temporary space, because they need courtrooms and chambers, and all the security that goes with it. So when you are trying to preserve the taxpayers' dollars, unless there is some unique situation where you can place court somewhere else, it is advisable to keep them there, and cost effective to do so.

With respect to the Veterans Administration, and due to the size of their space, the need to strengthen the floors and all that we had to do, it was not viable, because of everyone's concern, including the GSA, and——

Ms. NORTON. It is the veterans I am most concerned about. It is the veterans I am——

Mr. EHRENWERTH. Well——

Ms. NORTON. In fact, the senators were basically concerned about the veterans. They want to make sure that veterans and their files—and let me tell you it is interesting to note that the government has centralized veterans concerns so that even veterans from the District of Columbia relay to this office in Roanoke. So they do have a large caseload.

Mr. EHRENWERTH. That is right. And I agree with you in full.

And what we did—and I personally have met with the national director of facilities for the VA, for the local VA office, for the veterans groups. We have done this not by edict, but by collaboration, to make sure that every veteran and every veteran's group has the best result out of this, not only as we see it, but as they see it. And the decision was that we needed to move them, we would have liked to have moved them to one building, of course. That was not available.

So, we took those aspects of the Veterans Administration operations, the service centers where the veterans come, the service-related private organizations that serve the veterans, and put them together right across a little street from each other, making sure there was parking, handicap parking, and brought their files over to them, again, in very, very, very regular collaboration with the veterans. And we are spending some money to do this, because we are achieving the very important goal of minimizing any disruptions to the VA while we are doing this.

The VA facilities office nationally has signed off on it, and is very pleased with what we are doing. We have spent—as we indicated earlier, there is a substantial cost—$4 million to move, $10 million-plus for this temporary space—for the goal of having this operation of the VA continue to run smoothly and effectively as our veterans deserve, and have them come back to a better building—for example, where there are accessible restrooms, where disabled veterans can utilize when they are meeting the VA, which is not currently the case.

So, we are trying to take care of them permanently, as well as temporarily, in the most effective way we can.

Mr. DENHAM. Thank you. Ms. Dudley, you mentioned in your testimony space was already being renovated when the Recovery Act project started. Can you briefly describe what the renovation was?

Ms. DUDLEY. It predates my time in the office. But I think about 10 years ago a project was planned to renovate judges chambers on the third floor and the clerk's office and the probation office and other offices. It took 2 years to actually finish the construction

work on the clerk's office. Part of the phasing has now been interrupted by the ARRA project. The construction on the judges chambers has been halted. But halted—but now we are going to roll it into the ARRA project. So it will be done, it is just kind of delayed.

Mr. DENHAM. And what has GSA done to mitigate the impacts on your operation?

Ms. DUDLEY. Well, we have had good meetings with the GSA, and we have talked about logistics of moving the IT, the phone lines, the data lines. They worked with us to kind of smooth out those issues. They have worked with us in terms of making sure that when areas are blocked we will have other cubicles and other space to go to.

So, GSA, the project manager, and the other participants have been very responsive to our requests for accommodation.

Mr. DENHAM. And from a security perspective, same level of security as you have always had?

Ms. DUDLEY. Well, I do not know. You know, that probably goes a little bit beyond what I am actually able to talk about today. That would get the marshal's input on that.

Mr. DENHAM. OK.

Ms. DUDLEY. Thank you.

Mr. DENHAM. Thank you. And Mr. Ehrenwerth, I just wanted to go back to the thinking on the analysis itself, what did or did not happen. And I would certainly like to see a better cost benefit analysis than what has currently been provided us.

But just from the rough numbers, a $14 million facility in 1975, now spending $65 million to renovate. Could we not have built an entire new facility for that, state-of-the-art facility with all the green bells and whistles that were wanted for $65 million?

Mr. EHRENWERTH. Congressman, we looked into that. And the cost of building an adequate new building would be approximately $124 million, double the cost.

Mr. DENHAM. What would you have been able to sell the current facility for?

Mr. EHRENWERTH. Well, I have been in the real estate business long enough to know that you do not know. You put a sign on the door, say "For Sale," and it would depend on, first, the condition of the building, which is not anywhere near what it should be——

Mr. DENHAM. Isn't that part of the cost benefit analysis?

Mr. EHRENWERTH. You can do all the cost benefit analysis possible, but you do not know what a building will sell for until you see what the marketplace will buy.

Our experience is, and our cost benefit analysis suggests that a building in this condition would not yield a high price, not anywhere near the cost of building a new building, nor anywhere near the cost of selling this——

Mr. DENHAM. You do not do a rough market analysis? I mean I can tell you what my house is worth before I put it on the market. I mean I have got a pretty good idea, just by looking at what the market is doing.

Mr. EHRENWERTH. Well, let me—to be specific, if we sold the building as it now stands, we think we could get approximately—assuming someone was ready and able to buy—$23 million for it. And if you use that $23 million against the price of a new building,

then your new building would net cost you $100 million, in comparison to what we are spending here, $40-some million less.

Mr. DENHAM. And you had said we have not started the Recovery Act work until this summer?

Mr. EHRENWERTH. We have——

Mr. DENHAM. That is projected to start the Recovery——

Mr. EHRENWERTH. We have—we are doing the actual construction of the building starting later this summer. Of course, we have been doing other work that has created jobs, getting the four swing spaces ready and all the preliminary activity that goes with it.

Mr. DENHAM. And the Recovery Act dollars were for shovel-ready projects. What is your definition of shovel-ready?

Mr. EHRENWERTH. The Recovery Act dollars obviously had the goal of moving as quickly as possible. That goal had to be combined with the goal, as I mentioned earlier, of doing this in a way that did not disrupt the VA, that considered everyone's concerns. So, in this particular case, shovel-ready was combined with the goal of having the right building done with the right swing space. And so it has taken a bit longer.

Mr. DENHAM. And your definition of shovel-ready?

Mr. EHRENWERTH. Shovel-ready, I believe, is that you can go as quickly as possible, and most is in order. In this particular case, as I indicated, there were important things to do, such as not disrupt the VA. And that is why it has taken a bit longer.

Mr. GOODLATTE. Mr. Chairman?

Mr. DENHAM. You have a number of different projects under GSA where you are doing Recovery Act dollars, right?

Mr. EHRENWERTH. Yes.

Mr. DENHAM. And you had to justify on those projects what the timeline was for shovel-ready. We are trying to put people back to work as quick as possible. So what is your timeline on a shovel-ready project?

Mr. EHRENWERTH. Our timeline——

Mr. DENHAM. Is it 5 years? Is that shovel-ready?

Mr. EHRENWERTH. The—many of the projects are in order. Let me back up, if I might, to answer you honestly.

Mr. DENHAM. We are short on time. We are going to come back. We are going to do another round of questions. But just a ballpark. Is it 5 years? Two years? One month? What is shovel-ready?

Mr. EHRENWERTH. As soon as possible. We obviously like to do them within months. But we have to look at what is the requirement. Here we have a project——

Mr. DENHAM. It is either shovel-ready or it is not. You must have some type of criteria. If the President says, "Here, here is a pot of money for shovel-ready projects," which projects are shovel-ready?

And you cannot say that there is a 5-year project that is shovel-ready today. I mean I have got to imagine the American public believes shovel-ready is, "We can get out there and start immediately." So what is "immediately," in your definition?

Mr. EHRENWERTH. I do not think there is a particular number of days or weeks. "Immediately" means as soon as possible to achieve an important goal by—the goal being fast and appropriately done to preserve a substantial asset.

Mr. DENHAM. Thank you. Mr. Goodlatte?

Mr. GOODLATTE. Mr. Chairman, two things. First of all, because no study or cost benefit analysis was done before this quick decision was made, an assumption was made at the outset that was faulty and very costly, and that is they assumed that the VA would be able to stay in their space, just like the courts are staying in their space. And when they got into it, they discovered that that was not possible, and the VA was going to have to move out, at an additional cost of at least $14 million. So, that, I think, is part of their problem. But this clearly was not shovel-ready from the get-go.

Mr. Chairman, I have been advised that I am needed in the Judiciary Committee. We are marking up the patent bill, and I am the chairman of the subcommittee. I wonder if I might be excused.

Mr. DENHAM. Absolutely. One final question. In your definition, what is shovel-ready?

Mr. GOODLATTE. In my opinion, shovel-ready would be something where you are pretty close to being able to take the plans off the shelf and get to work on the project right away.

Mr. DENHAM. Now, this is government. Is 5 years shovel-ready?

Mr. GOODLATTE. I think it would be, to me, a lot less than that. I would think you would be talking months, as opposed to years.

Mr. DENHAM. Thank you. The chair will now recognize Ranking Member Norton for 5 minutes.

Ms. NORTON. Well, I think that it is a fair question to ask what is shovel-ready. I do note that in my testimony I indicated that GSA had obligated virtually all the funds, and I do think that if shovel-ready means anything, it is that you are working on the money and getting it out.

Now, if there is any criticism to be made of the shovel-ready nature of this project, I am sure it was on a list to be renovated, given its needs. It is the time it takes that is—was perhaps not included to make sure that the veterans were accommodated and that the courts were not disrupted. Did that delay going into the ground with this project, Mr. Ehrenwerth?

Mr. EHRENWERTH. Well, I think—yes, I think, as we have heard this morning, we would be subject to great criticism if we put moving rapidly ahead of making certain that the veterans and courts were not disrupted, at least any more than we had to. So, as we explored options for moving quickly, the decision was made to do what we need to do to minimize. And, yes, that requires a little more time, and that is what happened.

Ms. NORTON. I have only one more question. I just want to say this hearing has been very important, because it has made clear to me, and I think the GSA, that even if you are trying to get work out on the street quickly, there are great problems with violating—if it was not a violation, at least with skirting the price and competition requirements of the government.

But this hearing has also convinced me that you certainly could not have built a building for what you are renovating this building for, and that it would have been a disaster if you had brought the—had taken the proposal of Mr. Goodlatte's constituent, and put us in the position of selling the building for $23 million and then leasing it back to him and making him a rich man forever, because we would have had to lease it forever from him.

I might also say that I do not see how you could have done that in the first place, because we do not allow courts to be in leased space. So we have to own space where our Federal courts are.

My final question to you is how many jobs were created or are expected to be created as you continue with this work?

Mr. EHRENWERTH. Quite a substantial number. There are over 100 people working already, preparing the swing space. We expect there to be 550 direct and indirect jobs as a result of the construction, and goodness knows how many ripple effect jobs with more business at the restaurants and hotels, and all that goes with it. So, several hundred jobs, at a minimum.

Ms. NORTON. Thank you very much.

Mr. DENHAM. Thank you. I wanted to just go back. You said—again, Ranking Member Norton re-emphasized the point about not disrupting the veterans. I agree. I could not agree more. I am on the veterans committee, I am a veteran myself. We do a lot of work in that area. The last thing I want to do is disrupt the veterans, or create a security issue with the courts and the local folks.

What my concern is—is this shovel-ready? So, if we have to have greater planning, because of a situation with veterans or a hospital or courts or—regardless of what the project is, then maybe that is on a capital plan where we are putting assets out there, or funding available out there for a long-term, 2-year, 5-year, 10-year plan. But if it is shovel-ready, I believe the American people believe that a shovel-ready project is going to be ready to put a shovel into the ground, not push paperwork for several years, or several months.

So, one of the things that this committee would like to see is, what is your definition for a shovel-ready project. You must have some criteria available that, when the President comes and says, "I have got stimulus dollars, I have got Recovery Act dollars, we are going to work on putting people back to work," that there must be some type of criteria to actually getting people back to work, and getting projects moved forward.

Not only on this project, but we have—in my district, we have got high-speed rail where we are putting stimulus dollars on something that we are not going to see a shovel into the ground for 4, 5, or 6 years, which again, in my definition, is not shovel-ready. So I would like to see specific criteria on what your shovel-ready projects are, or what your goals are, specifically, for Recovery Act and stimulus dollars.

As well, I would like to see the cost benefit analysis that you have already provided, as well as any other information that has come out, either after the bid, as well as prior to accepting the bid.

And then, lastly—this is more of a comment than a question—it appears to me, from my conversations with Congressman Goodlatte, that he has not had the greatest level of cooperation. I am working very well with GSA and OMB right now. We are getting a great deal of cooperation. But this—certainly from past history with Ranking Member Norton a number of projects, as well as taking over this chairmanship, there has not been the greatest track record there. And once again, we are seeing from another congressman, from his local perspective, not the greatest cooperation, as far as getting information.

I would hope that we would continue, as we have seen over the last month, a greater working partnership here, so that we can avoid having these types of conflicts in the future.

Final comments from Ranking Member Norton?

Ms. NORTON. Thank you. You are speaking for me, as well, Mr. Chairman, about cooperating with the subcommittee and promptly getting information to the subcommittee. You only gain the resentment of the subcommittee when you do not get information, whereas the subcommittee—and you have seen Chairman Denham runs the committee just as I do—they are willing to work with you. But if we do not get the information, then we are working against you.

Thank you very much, Mr. Chairman.

Mr. DENHAM. Thank you for your testimony. Your comments have been very insightful. We will look forward to getting this information back on the various questions.

If there are no further questions from the committee, I would like to ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing, and unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

[No response.]

Mr. DENHAM. Without objection, so ordered. I would like to thank our witnesses again for their testimony today. If no other Members have anything to add, the subcommittee stands adjourned.

[Whereupon, at 11:42 a.m., the subcommittee was adjourned.]

Eleanor Holmes Norton

STATEMENT OF
THE HONORABLE ELEANOR HOLMES NORTON
TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

April 14, 2011

"Richard H. Poff Federal Building Renovation: Is it Costing the Taxpayer Too Much?"

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) (Recovery Act) provided $5.55 billion to the General Services Administration (GSA), $4.5 billion of which was for converting GSA buildings in all 50 states, the District of Columbia and the four territories into high-performance green buildings. The Recovery Act's primary purpose was to stimulate economic recovery through investments that preserve and create jobs, spur technological advances in energy conservation, and improve infrastructure for long-term economic growth. Under the recovery act, the federal government and the states were responsible for addressing the badly needed infrastructure upgrades, which also created jobs during the worst recession since the Great Depression. Our goal, however, has been not only to distribute the funds quickly to spark job creation, but to ensure that these investments lead to long-term savings. We are especially grateful that a Congressional Budget Office (CBO) report on the Recovery Act, released two months ago, shows that the Recovery Act has had a positive effect on the nation's economy. CBO estimates that the Recovery Act lowered the unemployment rate between 0.7 and 1.9 percentage points, increased the number of people employed by 1.3 million to 3.5 million, increased the number of full-time jobs by 1.8 million to 5.0 million, and increased the Gross Domestic Product by up to 3.5 percent, compared with what would have occurred without the Recovery Act.

The Recovery Act was enacted while I chaired the subcommittee, when jobs were all that was on the country's mind. To ensure the quickest possible job creation, the subcommittee held six Recovery Act tracking hearings. We should give GSA credit because credit is due. GSA has awarded contracts and begun work on 273 Recovery Act projects, totaling $5.2 billion, which was almost all of the Recovery Act funds under their jurisdiction. As of January 2011, GSA had already completed work on 26 projects, totaling over $100 million, which included the installation of 78 roofs, including putting 68 photovoltaic arrays on roofs, putting in place 140 lighting systems, installing 52 water systems, as well as completing 222 system tune-ups and re-commissionings. With bids for infrastructure projects coming in much lower than expected, GSA has saved $565 million and has redirected these funds to 17 additional projects. Because of the high level of transparency and the reporting requirements the Committee insisted upon, there has been an unprecedented level of accountability while implementing these projects. Moreover, the Recovery Act established a special Recovery Board, composed of Inspectors General of the agencies that received funds. The Recovery Board, combined with the posting online of progress on each project along with our frequent subcommittee hearings ensured an environment where taxpayers' dollars would be spent quickly and well. Along with other federal agencies and the states, GSA stretched Recovery Act dollars further than anticipated. However, GSA should get

special credit because, unlike most agencies, GSA was not a pass-through to the states. GSA was directly responsible for getting the funds out and working on construction and producing jobs. However, GSA, which did the work and deserves the credit, also must take responsibility for whatever issues we find.

The success of the Recovery Act in helping the nation emerge from the "Great Recession" in no way negates the need to continue vigorous oversight by the subcommittee or suggests that there are not problems from which GSA and the subcommittee can learn. Our subcommittee continues to bear a direct responsibility for the stimulus funds under our jurisdiction. I thank Chairman Denham for continuing these oversight efforts.

Today, we will focus our oversight on the renovation and modernization of the Richard H. Poff Federal Building (Poff building) in Roanoke, Virginia, funded by the Recovery Act. The Poff building was constructed in 1975 and is approximately 316,000 gross square feet of space, which is occupied by the Department of Veterans Affairs, the U.S. courts, the U.S. Marshals Service and other agencies. Although the building is 35 years old, it has never had a comprehensive modernization. The Recovery Act modernization of the Poff building includes the replacement of the window curtain wall, installation of an HVAC system, renovations of the bathrooms, upgrades to the lighting fixtures, and the installation of new sustainable roofs, including a solar system to generate electricity. The project will increase the life of this federal asset, will result in a high-performing, energy-efficient federal building, and will ensure that the federal investment in space the government owns is preserved, ensuring its highest and best use and its continuing contribution to the Federal Building Fund, as well as avoiding the need for rental space for these agencies.

However, in reviewing the project, the GSA Inspector General (IG) has raised concerns about whether the procurement for the project met competition requirements and whether GSA had an adequate system of controls to ensure that the Poff building project met competition requirements. GSA has concurred with both findings of the IG report and has committed to implementing its recommendations. In addition, the U.S. Representative from Roanoke, VA and the two U.S. Senators from Virginia have raised concerns about the impact of the project on the operations of the Roanoke Veteran Affairs Regional Office, the building's largest tenant, and the efficacy of the energy improvements. We need to hear from GSA about what gave rise to the problems in order to ensure that they have been ameliorated and will not occur again.

In maintaining our public buildings inventory and putting even more Americans back to work, I encourage GSA to allocate funds to projects that provide the best return. I look forward to hearing from the witnesses today about the modernization of the Poff building and the cost-benefit analysis used in selecting the project for modernization.

STATEMENT OF JULIA C. DUDLEY,
CLERK OF COURT, UNITED STATES DISTRICT COURT,
WESTERN DISTRICT OF VIRGINIA

BEFORE THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT,
HEARING ON:
"RICHARD H. POFF FEDERAL BUILDING RENOVATION: IS IT COSTING THE TAXPAYER TOO MUCH?"
APRIL 14, 2011

Good morning, Chairman Denham, Ranking Member Norton and esteemed Members of the Subcommittee. My name is Julie Dudley and I am the Clerk of Court for the United States District Court for the Western District of Virginia. Thank you for inviting me and giving me the opportunity to present testimony before this subcommittee today concerning the impact this ARRA Project will have on the operations of the court staff.

New Clerk's Space in the Poff Building

Last July, the Clerk's Office moved from the third floor of the Richard H. Poff Federal Building in downtown Roanoke, Virginia, into renovated space on the fifth floor. This move, which was part of a larger, phased renovation project, was a long time in coming. Planning for this renovation project began over ten years ago. Construction and finishing work for the Clerk's Office took more than two years to complete.[1] The move put twenty-four of my staff together into contiguous space and generally lifted the morale of the office. Approximately a year after our move into this new space, we will begin moving staff around and within our space to accommodate the replacement of curtain wall windows and the building's heating, air conditioning and ventilation system—all part of the ARRA Project.

My staff is very proud of the new space we moved into last July. We finally have well-designed, functional space that serves us and the public well. Attorneys and the public now have a separate office where they have use of a public computer terminal and can file pleadings or conduct research. We also have an appropriately-sized, comfortable room where our jurors and grand jurors can assemble before their work begins, and where the soon-to-be-naturalized citizens can wait until time for the naturalization ceremony to begin. Members of my staff now have adequate offices and work stations. This is a significant change from the chopped up, cramped space we once occupied on the third floor.

[1] The other phases of this larger construction project entailed renovation of the chambers for Chief Judge Glen Conrad and construction of chambers for Magistrate Judge Michael Urbanski on the third floor as well as renovation of the fourth floor to accommodate the Probation Office. Work to Chief Judge Conrad's chambers and the offices that will house the IT staff for the Court, Clerk's Office and Probation Office has not been completed and was stopped because of the ARRA Project. Given the timing, the decision was made to go forward with the ARRA Project and incorporate into that project the completion of the work to Judge Conrad's chambers and the IT offices.

The Impact of the ARRA Project

In preparing for this construction, GSA has hosted numerous informational meetings with the court family. These meetings have been good. The GSA project manager and other project participants have walked us through the details of the phasing and construction, and have been very responsive to our requests to accommodate our operational needs. The construction team members have assured us continued cooperation and responsiveness during the life of this project. Because of their professional approach in reaching out to us, I am confident they will continue to accommodate our operational needs.

However, once the ARRA project begins and for its duration, the fact is that we again will occupy chopped up, cramped space and lose privacy and functionality. Neither the Clerk's Office nor the Probation Office nor the four judges whose chambers are located in the Poff Building will move to space outside the Poff Building—not because we elected to stay but because of the lack of rentable space with courtrooms elsewhere in Roanoke. Instead of moving away from the construction, we will stay put during the estimated three years of work and carry on the work of the court. The ARRA Project entails the removal of the curtain walls—the windows--on the north side and south side as well as replacement of existing heating and air conditioning systems and installation of handicapped-accessible restrooms. The project will affect the workflow of the U.S. District Court and the Probation Office in the following ways:

(1) Lost work time during staff relocations;
- Clerk's Office staff relocate twice
- Twenty-three Probation staff members relocate twice
- Thirteen members of our Shared Administrative Services staff relocate once with two employees moving twice
- Judges' chambers have a total of five relocations

(2) Additional work for the IT staff;
- Telephone and data set up for 119 relocations
- Wiring for 15 temporary workstations on floors 4 and 5
- Temporary set up of Staff Training Room and relocation of equipment
- Approximate time to move each employee is two hours

(3) Reduced courtroom capacity when the Magistrate Judge's Courtroom closes in Phase 2 for approximately 12-18 months.

During the project, work on the mechanical, electrical and plumbing will be ongoing during daily work-hours on all floors. Noise, dust and the presence of workmen will be a distraction to staff. Temporary loss of power, air conditioning and heating and plumbing services can be expected, and it is expected that the cafeteria will be closed during the renovation. Accidental disruption of security and IT infrastructure is also a possibility. Vinyl-clad walls will be temporarily erected approximately 10 feet from inside the windows and we will lose all of our natural light during the construction. The newly installed carpet and freshly painted walls that were part of our recent renovation will likely be damaged. Those employees who are now in offices along the perimeter of the building will be relocated to

temporary cubicles to be constructed in the interior space. We will have to store materials in hallways and learn to live with inconvenient clutter for the next several years.

My staff, just like all federal employees, have been asked to conserve materials and cut back on expenditures. Now, they are being told they also will have to endure much disruption and distraction at work for the next several years. In addition, the VA and other occupants will be relocated out of the building during renovation. With GSA being unable to find appropriate space to relocate the court, as I mentioned earlier, the court and its related agencies will be the only occupants still coming to work in a building, which in a sense, will be a largely empty, 14-story construction zone. No doubt, you can imagine what impact this will have on their morale.

Also affected will be the public who come to the Clerk's Office. The private office where attorneys and the public now use the public computer terminal will be unavailable for use. We will have to rig up some small space near the public counter to accommodate this computer. Our jury assembly room will not be available for use by jurors, grand jurors or soon-to-be-citizens. Instead, we will have them assemble in a room less than half the present size and in hallways or elsewhere. Additionally, because the public restrooms on the west side of the building will be closed during Phase 1A (North Side Phase), the public will have only the restroom on the first floor available for use.

The Probation Office will see its officers moving out of their offices and into temporary offices constructed within the interior space. These temporary structures will afford little privacy to the officers and the clients who must visit with the officers.

Conclusion

Though I fully expect the staff of my office to weather this period of construction and continue to provide court services to the public, the disruption to the work environment and operations is a fact of construction life. As with any construction project, you go into it with the hope that the result will be great but also with anxiety and uncertainty as to how long the work and displacement will actually take. However, the end result will be windows we can actually see out of, heating and air conditioning systems that work well, and a return to functional, appropriate space.

Thank you, Mr. Chairman, Ranking Member Norton and Members for your time today. I will be pleased to answer any questions you may have for me about the impact to the court staff.

STATEMENT OF

DAVID EHRENWERTH

REGIONAL ADMINISTRATOR

MID-ATLANTIC REGION

U.S. GENERAL SERVICES ADMINISTRATION

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT
U.S. HOUSE OF REPRESENTATIVES

"Richard H. Poff Federal Building Renovation: Is it Costing the Taxpayer Too Much?"

APRIL 14, 2011

Good morning Chairman Denham, Ranking Member Norton, and Members of the Subcommittee. My name is David Ehrenwerth, and I am the Regional Administrator for the U.S. General Services Administration's (GSA) Mid-Atlantic Region. I appreciate the opportunity to come here today to discuss the renovation of the Richard H. Poff Federal Building and U.S. Courthouse in Roanoke, Virginia. This critical project, which is funded by the American Recovery and Reinvestment Act of 2009, is a much needed investment in GSA's inventory that will keep a core, long-term asset operable and functioning, while increasing its performance. This building modernization is part of our commitment to help the nation's economic recovery by investing in aging infrastructure while creating jobs in local communities.

Asset Management –

As a responsible asset manager, GSA must ensure that our buildings are well functioning, safe, and welcoming for all tenants and visitors. We have expertise in effectively managing building operations and responding to the concerns of our occupants. The Poff Federal Building, which houses the U.S. Department of Veterans Affairs (VA) and the U.S. Courts, is 36 years old and has never had a major renovation. At 342,090 gross square feet, the building provides a considerable amount of owned space for the Federal government in the area. The building is in need of significant repairs to ensure that the building operates efficiently and provides a workplace environment that helps tenant agencies meet their mission needs. A modernization of this facility is the most cost-efficient way to meet the government's housing needs in Roanoke.

Annually, GSA categorizes its owned inventory based upon a series of surveys and tests that evaluate the financial performance and physical condition of our buildings. In FY10, the Poff Federal Building was categorized as an underperforming asset in GSA's inventory. This meant that, due to the significant reinvestment needs, including a leaking curtain wall and failing building systems, the property was not able to generate at least 6 percent return on equity. Return on equity is a commonly used private sector benchmark to track performance of assets.

Richard H. Poff Federal Building Renovation Project –

The Recovery Act provided GSA the opportunity to invest the funds necessary to update the Poff Building's systems and features with high performing ones. Once this project is complete, the building will be a performing asset with an anticipated strong financial return, while satisfying long-term customer needs. This project will extend the

useful life of the building and improve public accessibility, while keeping Federal workers in owned space. Specifically, this renovation includes:

- Replacing the inefficient and leaking single paned glass curtain wall with a new energy efficient curtain wall that will better regulate the building's internal temperatures and reduce operating costs;
- Improving the building's lighting and mechanical systems with new, energy-efficient systems and technologies; and
- Replacing failing building systems which have reached the end of their useful life, including the heating, ventilation and air conditioning system.
- Replacing the deteriorating roof with a new sustainable roof and a solar system to generate electricity. This new roof will prevent heat buildup and reduce the building's air conditioning load;

In addition to building features that are being replaced and improved, GSA will also address deficiencies that impact our tenants' ability to serve the public, particularly the VA, which occupies approximately half the building. Most importantly, GSA is improving accessibility for handicapped individuals. We are renovating the public restrooms to better serve our nations' disabled veterans by meeting Architectural Barriers Act Accessibility Standards, which is the Federal equivalent of complying with the Americans With Disabilities Act. Additionally, the floor structure will be strengthened to ensure it is capable of safely supporting the current and future weight of VA's files.

Working with Local Communities –

GSA wants to ensure that we pursue this project in partnership with the community and help to create jobs. I recently participated in a forum with the City Council of Roanoke to explain the benefits and opportunities of this project, and why we are pursuing it. In that forum, I discussed the importance of ensuring that GSA assists the General Contractor, Balfour Beatty, in outreach to the community and seeing where there might be opportunities for subcontracting participation. Balfour Beatty has held a number of small business forums, and will continue to do so throughout the project to help engender the participation of local businesses in subcontracting.

Conclusion –

The design for the Poff Federal Building project is now complete, the swing leases have been awarded, and construction begins this summer. The investments in the Poff Building will help stimulate job growth, increase building performance, and transform the

Poff Federal Building into a welcoming, sustainable, productive workplace for Federal employees and the public who come to the building to receive necessary services.

I appreciate the opportunity to come here today to discuss this investment and I welcome any questions you have.

TESTIMONY OF CONGRESSMAN BOB GOODLATTE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

OVERSIGHT HEARING ON POFF FEDERAL BUILDING PROJECT

APRIL 14, 2011

Chairman Denham, Ranking Member Holmes Norton and members of the Subcommittee, thank you for holding this important oversight hearing and for inviting me to testify today about the Poff Federal Building renovation in Roanoke, Virginia.

Two years ago, I was alerted that a major federal project was going to take place in Roanoke, the largest city in Virginia's Sixth District. The project is the $51 million renovation of the Richard H. Poff Federal Building, funded by the American Recovery and Reinvestment Act – the stimulus bill. The Poff Building renovation is the largest stimulus-funded project in the Sixth District of Virginia. The Poff Building houses the U.S. District Court for Western Virginia and the U.S. Marshals Service. The majority of the building is occupied by the U.S. Department of Veterans Affairs Regional Office, which processes claims and applications for a variety of benefits and loans for our veterans.

The Poff Building was built in 1975 at a cost of $14 million. However, I have never before, since my service in Congress began in 1993, been approached by the landlord – the General Services Administration – about the need to renovate the building in a major fashion. Not until I was alerted two years ago by entities inside and outside the federal government was I even aware that the Poff Building renovations were included in the stimulus legislation. Then my constituents started complaining about the enormous price tag and the inability of local businesses to bid on the initial stages of the project.

The Poff Building project, which will replace the building's roof and glass walls, refurbish the restrooms, install a new heating and cooling system and make other "green" upgrades, has failed in every facet to be the "shovel-ready" project that we heard so much about as a part of the stimulus debate. From the passage of the stimulus bill to the start of construction, slated to begin this summer, will be nearly two and one half years. And that is just the beginning of my concerns, which commenced in April 2009 and continue to this day. My specific concerns include the following:

- The GSA repeatedly failed to fully answer my many questions about the project's bids process and design process, in a pattern defined by a lack of transparency, unresponsiveness, and dismissal of the public's concerns about this project from its inception.

- The GSA's Inspector General audited the project and found that the agency provided the maximum contract amount, in violation of federal procurement laws, giving bidders that information and depriving taxpayers of a fair process to determine the true cost of the

project. It is not known how many millions of dollars the taxpayers would have saved if the GSA had not told the contractors how much to bid in violation of the law.

- Other than a two-page summary prepared after the project was commenced, the agency has never provided a comprehensive cost-benefit analysis showing that the renovations would be more fiscally responsible than constructing a new building.

- Nor have they considered a number of other alternatives that could be less expensive and more effective including not doing major renovations, selling the building, building a new Veterans Affairs building as was suggested by Virginia Senators Warner and Webb, or building a new courthouse

- The GSA bypassed the normal procurement process – similar to what was used to build a new Social Security Administration building in Roanoke – preventing the full disclosure of the supposed benefits and project costs of "green" updates.

- The safety and security of the Poff Building has been given only cursory attention despite the structure being located along a major thoroughfare in Roanoke's central business district. I attended a meeting in October of 2010 with members of the Poff Building's Security Committee and GSA officials to discuss the security of the building. To my knowledge, no action regarding the security of the building has been taken since then. In addition, any security upgrades to the building will need to be done with additional funds – the planned $51 million renovation does not include funding to address the security needs of the building.

- The project's cost has ballooned by more than $10 million due to the need to relocate Veterans Affairs offices to four different locations in downtown Roanoke for up to three years, posing logistical concerns and inconveniencing veterans, many of whom are disabled. Many concerns have been raised about the disruption of the processing of claims, inadequate work facilities, problems with employee morale, files being separated in five different locations. Central file storage will remain in the Poff Building while under construction, creating problems with delays, access to files and the security of files as files are shuffled to and from central storage to temporary offices. I have received many complaints from veterans' organizations and individual veterans as well as from many employees in the building. In fact, one local veterans' organization filed for an injunction seeking to block the relocation of the Veterans Affairs office while the renovation project proceeds.

- In one example of the waste in this project, $7,246 was paid to an arts conservation firm in Ohio to determine how an iron sculpture outside the PFB will be affected by the renovations. The consultant came from Ohio, took a look, and said "move the sculpture."

I have called on the project to be halted because I do not believe it is worthwhile. Failing that, my faith in the GSA will remain deeply shaken. I hope that this public hearing will offer additional opportunities to understand why the Poff Federal Building project has been conducted in such an unconvincing manner to date.

STATEMENT OF HON. BRIAN D. MILLER
INSPECTOR GENERAL, GENERAL SERVICES ADMINISTRATION
BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT

APRIL 14, 2011

Mr. Chairman, Ranking Member Norton, and distinguished members; I want to thank you for the opportunity to testify about my office's review of the modernization of the Richard H. Poff Building (Poff Building).

There are two key issues I would like to address today. The first is the General Services Administration's (GSA) award of a contract for construction services for the Poff Building without adequate price competition, in violation of the Competition in Contracting Act. The second is GSA's decision to proceed with building renovations before it had completed a cost benefit analysis. Without these safeguards, GSA cannot be certain it received a fair and reasonable price on behalf of the American taxpayer.

Lack of Price Competition

We issued an independent audit report on the renovation of the Poff Building on November 17, 2010, as part of our continuing oversight of GSA's American Recovery and Reinvestment Act (Recovery Act) projects. We found that GSA awarded the construction services contract for the Poff Building without adequate price competition. The Competition in Contracting Act generally requires that procurements be conducted using full and open competitive procedures. GSA violated this Act when it did not obtain price competition for the cost of construction services for the renovations to the Poff Building. Additionally, the construction cost was established using a budget estimate without an independent government estimate. Without these safeguards, GSA does not have assurance that a fair and reasonable price was achieved.

The contract was awarded using the Construction Manager as Constructor (CMc) methodology. Generally, this type of contract is initially awarded for design phase

services[1] at a firm fixed price with an option for construction phase services at a Guaranteed Maximum Price (GMP) that is established at contract award. The GMP acts as a ceiling price for the actual construction phase services. During the evaluation and selection process, before the award is made, the proposed GMP should be evaluated along with the pricing for the design services. By evaluating total pricing and the technical proposal, rather than considering only the cost of design phase services, the overall price is set based on competition.

However, GSA established a GMP of $39 million in its Request for Proposals (RFP); GSA did not allow the contractors and the marketplace to set the maximum construction price. The ten bidders all had the same GMP that GSA had identified in the RFP. By establishing the GMP, GSA eliminated cost or price as an evaluation factor for the construction services option that constituted the vast majority of the contract price. In November 2009, GSA awarded the contract to a contractor whose technical proposal was in the competitive range and who had the lowest price for the design phase services. The cost for the design services, which was the only price competition, was $225,000. GSA did not comply with the Competition in Contracting Act requirement, that federal agencies ensure fair and reasonable pricing by using full and open competition, when it exercised the construction option without obtaining price competition. In short, a contractor need only be competitively priced on a $225,000 option to win a contract in excess of $40 million.[2]

Further, the GMP of $39 million had limited support, as it was based on an internal budget estimate rather than an independent government estimate as required by the Federal Acquisition Regulation.

GSA has little assurance that fair and reasonable pricing was achieved because its actions did not comport with either the Federal Acquisition Regulation or the Competition in Contracting Act.

Including the Poff modernization project, my office has reported on six Recovery Act projects using the CMc methodology.[3] The awarded construction costs for these projects totals over $464.8 million. In each case, the construction price lacked price competition and was either set by GSA or through sole-source negotiation with the CMc contractor. In each case, the Competition in Contracting Act was violated. My office has recommended that GSA institute a system of management controls to ensure that contracts using the CMc methodology meet competition requirements.

In response, GSA has developed a corrective action plan. The plan includes standardizing the CMc methodology, issuing guidance and providing training to GSA

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[1] Design phase services include activities such as ensuring the design complies with applicable regulations, codes, and standards, as well as ensuring the constructability of the design.
[2] The value of the contract option for construction services, when exercised, was $39.9 million.
[3] The six projects are the Austin U.S. Courthouse, 50 United Nations Plaza, Poff Federal Building, Huntington Federal Building, Edith Green-Wyndell Wyatt Federal Building, and Peace Arch U.S. Land Port of Entry.

project and contracting staff, and having CMc procurements reviewed on an annual basis. GSA has begun to implement these corrective actions by issuing a standard contract template and guidance for CMc contracts; however, the other steps are still in process.

Cost Benefit Analysis Done After the Award

We also did a limited review in response to a July 2010 letter from Congressman Goodlatte. During that review, we identified the following chronology of events, which showed that GSA did not do a cost benefit analysis until after it had awarded the contract.

July 2009	Request for Proposals issued
November 2009	Contract awarded
March 2010[4]	Cost benefit analysis conducted

Normally, a cost benefit analysis that compares the cost of various alternatives (such as new construction and renovation) is performed as part of project planning along with an analysis of how each alternative addresses the tenants' housing needs. Both GSA and Veterans Administration (VA) officials advised the Office of Inspector General that the VA (the primary tenant) will continue to need the building. According to GSA project staff, the cost benefit analysis was not done earlier because constructing a new building was not considered to be a viable option, as one of the tenants, the U.S. District Court, would require a new courthouse that was not on the Judiciary's five-year construction plan.

We further noted that normally such a cost benefit analysis would be required in order to obtain prospectus approval, which would have allowed the appropriate Congressional committee to review the project's merits in order for it to be funded. However, since this project was funded under the Recovery Act, GSA only had to provide a spending plan to Congress, and GSA did not have to go through the prospectus approval process. This project was on the spending plan at $50,968,000, which was the estimated cost for design, management and inspection, and construction. The spending plan did not include such costs as temporary leased space to house tenants during renovations or security enhancements. GSA has exceeded the reported estimated Recovery Act amount. As of April 6, 2011, the contract amounts reported in the Federal Procurement Data System - Next Generation for the Poff Building totaled $52,325,608 as follows:

- $6,510,196 for Design
- $3,320,883 for Management & Inspection
- $42,476,250 for Construction
- $18,279 for Historic Preservation

[4] GSA conducted another cost benefit analysis on September 7, 2010.

Conclusion

In summary, GSA did not follow the safeguards for demonstrating and ensuring that projects are financially prudent. GSA did not perform a cost benefit analysis until after the contract was awarded. GSA did not use an independent government estimate to establish a target price for the construction services, which constituted the vast majority of the contract. Finally, GSA set the cost of construction services, rather than establishing that cost through competition. Because GSA did not comply with these safeguards, we do not have assurance that this project did not cost the taxpayer too much.

Poff Hearing QFRs

1. How was the Poff building selected above other GSA properties due for repairs and renovation - what factors did GSA use to select this project?

GSA selected projects to receive American Recovery and Reinvestment Act of 2009 (Recovery Act) funds based on two overarching criteria: the ability to put people back to work quickly, and the ability to transform Federal buildings into high-performance green buildings. The complete list of selection criteria applied to all projects was as follows:

- High-performance features concentrating on energy conservation and renewable energy generation
- Speed of construction start (creating jobs), with an emphasis on those projects that could begin within 120 days
- Execution risk: minimizing the risk that projects will fail due to unforeseen conditions
- Facility condition: GSA uses the Facility Condition Index, which is a standard real estate industry index that reflects the cost of the repair and alteration backlog of a particular building relative to the building's replacement value
- Improving asset utilization
- Return on investment
- Avoidance of lease costs
- Historic significance

2. The GSA Office of Inspector General concluded GSA violated certain contracting laws in two ways:

a) by including the Guaranteed Maximum Price in the RFP, GSA did not allow the market to drive the maximum construction price; and

b) GSA failed to obtain an independent Government Estimate for the project.

Do you agree with this assessment and what is GSA doing to rectify it?

As we indicated in the hearing, GSA acknowledges there are several ways to improve our processes moving forward. In response to the Office of the Inspector General's (OIG) Audit, GSA developed a corrective action plan to strengthen internal controls surrounding the Construction Manager as Constructor (CMc) delivery method so that actions noted in the audit report are not repeated.

To comply with the OIG's recommendations pertaining to exercising future contract options and implementing stronger management controls, GSA has:

- Issued additional policy to standardize the use of the CMc delivery method. We issued a PBS Procurement Instructional Bulletin documenting internal controls regarding the use and application of the CMc methodology;
- Developed mandatory training for PBS Program Managers and Contracting Communities using CMc contracts based on this new policy;
- Included CMc contracts on annual Procurement Management Reviews conducted by the GSA Office of the Chief Acquisition Officer.

3. What evaluation did GSA do to ensure that VA's operations were relocated to minimize the impacts of their operations?

GSA has worked closely with the Department of Veterans Affairs (VA) throughout the modernization project and partnered with VA on the planning and design of the project to determine the optimal way to perform renovations while minimizing the disruption to the important services VA delivers. GSA conducted several market studies to find the best temporary space for VA. This analysis showed that the market did not offer a single building for lease that would have housed VA. The analysis identified four suitable lease locations, all within than one mile from the current location, as acceptable space alternatives for VA during these renovations. The temporary office space locations are close to the current VA regional office, located near the central business area and will house the major regional VA office components.

In order to effectively manage swinging VA functions to temporary locations while the modernization work is undertaken in Poff, GSA worked closely with VA to identify the optimal housing mix and minimize disruptions to veteran services. For example, the organizations within VA that provide outreach to veterans are located in the either same leased location or in close proximity of less than a mile. VA also identified the active files that needed to be collocated with the offices executing the mission; the balance of VA's files will remain secure and available in the Poff Federal Building.

We will continue to work closely with VA throughout this renovation and minimize disruption to VA operations. GSA recognizes the importance of VA's mission and has dedicated move coordination services locally to assure a smooth transition of VA operations to the new temporary office spaces.

4. The clerk of the U.S. courts housed in the building noted in her testimony that certain renovations were already occurring prior to the decision on the Recovery Act work. How is the Recovery Act project impacting work that may already have been completed and how is the project incorporating the unfinished elements of the previous work?

Prior to the Recovery Act, GSA was conducting minor repairs and alterations throughout the building. One area of improvement was a judge's chamber on the 3rd floor, which

was scheduled to be completed after the start of construction of the Recovery project. GSA has since re-sequenced the work on the chambers to coincide with the Recovery project renovations because the completion of this Recovery project would have resulted in a disturbance to the recently completed judge's chamber and impacted other tenant moves.

The other minor R&A work completed before the Recovery Act project focused on the relocation of the district clerk, probation, and trial preparation space within the building, and the repairs and alterations in other court functions such as jury assembly and the IT room on the 2nd through 5th floors. This work was necessary to meet the Court's space requirements and consolidate functions on the lower floors of the building.

The Recovery Act renovations will impact some of the recently completed renovations, specifically the installation of a new curtainwall (window) along the perimeter and modifications to the HVAC system. The contractor GSA awarded for the Recovery project is performing the Recovery project will the work not yet completed from the previous project.

The Roanoke Valley Veterans Council

ROANOKE-SALEM-VINTON, VIRGINIA

April 27, 2011

Chairman Jeff Denham
House Committee on Transportation and Infrastructure
Subcommittee on Economic Development, Public Buildings, and Emergency Management
585 Ford House Office Building
Washington, DC 20515

Chairman Denham:

Thank you for holding a hearing on April 14, 2011, regarding the Richard H. Poff Federal Building in Roanoke, Virginia. I appreciate your diligence and oversight of this project.

My name is Daniel E. Karnes, LTC, AUS, (Ret) and I am the President of the Roanoke Valley Veterans Council.

As you learned in your hearing, the Richard H. Poff Federal building is scheduled to undergo a renovation, funded by the American Recovery and Reinvestment Act. You may have also learned that the largest tenant of the building is the Department of Veterans Affairs (VA) Regional Office, which processes applications and claims for our veterans of southwest Virginia. During this renovation, the VA will relocate to four different locations in downtown Roanoke for up to three years. While the intent of the renovation of this building is to replace the roof, walls, install new heating and cooling system and other "green" upgrades, I have several logistical concerns that I would like to share on behalf of veterans of southwest Virginia.

First, I hope that GSA remains committed to its word that it will provide handicapped parking to our disabled veterans who will be seeking consultation of the VA. While I appreciate the need for parking for the staff of the VA, I will continue to oversee this critical logistical concern that could greatly inconvience our disabled veterans' ability to access their benefits and loans—despite a more than $50 million federal investment, which seems to rise by the day.

I am also concerned about the potential disruption of the processing of claims that will be caused by the relocation of VA staff to four different locations. While the central storage of files will remain in the Poff building while it undergoes renovation, many other files will be shuffled between central storage and these temporary offices. To my knowledge, no examination was made of the need to relocate the VA offices or files while the renovation project takes place. I am very concerned that access to, and security of, these files has not been given proper consideration. I am also concerned that the morale of VA employees will suffer as a result of the confusion and lack of consultation about the new demands they will incur as a result of this disruptive relocation.

Mr. Chairman, thank you again for holding this oversight hearing and I hope that you can express similar concerns to the GSA as this federal investment moves forward.

Sincerely,

Daniel E. Karnes, LTC, AUS, (Ret)

President, Roanoke Valley Veterans Council

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