

LIBRARY OF CONGRESS: 2012 INSPECTOR GENERAL REPORT ON LIBRARY-WIDE ACQUISITIONS

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
OF THE
COMMITTEE ON HOUSE
ADMINISTRATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS
SECOND SESSION

HELD IN WASHINGTON, DC, JULY 19, 2012

Printed for the use of the Committee on House Administration



Available on the Internet:
www.fdsys.gov

U.S. GOVERNMENT PRINTING OFFICE

75-656

WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON HOUSE ADMINISTRATION

DANIEL E. LUNGREN, California *Chairman*

GREGG HARPER, Mississippi

PHIL GINGREY, M.D., Georgia

AARON SCHOCK, Illinois

TODD ROKITA, Indiana

RICHARD B. NUGENT, Florida

ROBERT A. BRADY, Pennsylvania,

Ranking Minority Member

ZOE LOFGREN, California

CHARLES A. GONZALEZ, Texas

PROFESSIONAL STAFF

PHILIP KIKO, *Staff Director & General Counsel*

JAMIE FLEET, *Minority Staff Director*

SUBCOMMITTEE ON OVERSIGHT

PHIL GINGREY, M.D., Georgia, *Chairman*

AARON SCHOCK, Illinois

RICHARD B. NUGENT, Florida

TODD ROKITA, Indiana

ZOE LOFGREN, California

CHARLES A. GONZALEZ, Texas

LIBRARY OF CONGRESS: 2012 INSPECTOR GENERAL REPORT ON LIBRARY-WIDE AC- QUISITIONS

THURSDAY, JULY 19, 2012

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The subcommittee met, pursuant to call, at 10:30 a.m., in room 1310, Longworth House Office Building, Hon. Phil Gingrey (chairman of the subcommittee) presiding.

Present: Representatives Gingrey, Rokita and Gonzalez.

Staff Present: Phil Kiko, Staff Director and General Counsel; Peter Schalestock, Deputy General Counsel; Kimani Little, Parliamentarian; Joe Wallace, Legislative Clerk; Yael Barash, Assistant Legislative Clerk; Salley Wood, Communications Director; Linda Ulrich, Director of Oversight; Dominic Storelli, Oversight Staff; Bob Sensenbrenner, Elections Counsel; Matt Pinkus, Minority Senior Policy Analyst; Khalil Abboud, Minority Elections Staff; and Greg Abbott, Minority Professional Staff.

Mr. GINGREY. I now call to order the Committee on House Administration Subcommittee on Oversight for today's hearing on the Library of Congress. The hearing record will remain open for 5 legislative days so that Members may submit any materials that they wish to be included therein. A quorum is present, so we may proceed.

Through its seven service units, the Library of Congress provides us—Congress and the American people—an unrivaled repository of knowledge and research services, many essential for Congress' ability to fulfill its constitutional responsibilities. A mission of such scope and significance requires adequate resources; and equally important, it requires that its resources be strictly managed. With an annual budget of over \$580 million, taxpayer dollars, it is absolutely imperative that the Library have the appropriate measures in place to avoid waste and ensure these funds are spent in the most efficient and cost-effective manner. Of course, this can only be achieved through a collaborative effort between the Library and its inspector general, which brings me to the focus of today's hearing.

In March of this year, we received a troubling report from the Library's inspector general on the state of its acquisition process. The report identified 21 deficiencies stemming from inadequate management, a lack of training and expertise, and poor acquisition communications with the rest of the Library. With \$210 million

worth of contracts awarded by the Library in fiscal year 2011, roughly a third of its overall budget, we simply can't afford to ignore these problems.

Equally disturbing is that of the 21 deficiencies detailed in this report, this March report, 16 of 21 were identified in 2008, 4 years ago, the last time the inspector general performed a comprehensive audit of the Library's acquisitions. If the Library's acquisition procedures were failing in 2008, why did it take 4 years to follow up on that?

Officewide audits were conducted in 2002, 2003, 2004, as well as 2007 and, of course, 2008. Not only does it appear that the Library failed to take the necessary action in 2008, but it also appears that the inspector general failed to do its job in tracking these deficiencies. Congress relies on the inspector general to ensure agencies of the Federal Government are complying with established standards and safeguards to prevent any fraud and identify waste and abuse. Waiting 4 years to follow up on previous recommendations is far too long to ensure corrective actions have been taken.

Today I am interested in hearing three things from our witnesses: How bad is the problem, how did we get here, and how are we going to fix it? How many of the 21 findings and 51 recommendations have been resolved? What progress has the 120-day detailee made, understanding that that person has been in place just a little more than a month? Of the necessary corrective actions yet to be accomplished, when will they be resolved?

In addition, I am also interested in hearing from the inspector general an explanation of the factors that determine the scheduling of acquisition-related audits and to make certain another 4 years will not pass between this March report and the next audit.

I want to thank each of my colleagues for being here today. This is a very important subcommittee. We are all extremely busy, and we all serve on other very important committees, and these are senior members. So I am most appreciative of them being here, understanding the significance of this hearing.

I would now like to recognize the ranking member of the full committee—well, in fact, I guess the ranking member of the full committee is not here—but a very, very senior-ranking Member in the minority party, my good friend from Texas, Representative Charles Gonzalez. And I will recognize him now for the purpose of providing an opening statement.

Charlie.

Mr. GONZALEZ. Thank you very much, Mr. Chairman.

First I would like to start off with asking for unanimous consent to allow the ranking member Bob Brady, Congressman Brady's statement to be entered and be made a part of the record of today's hearing.

Mr. GINGREY. Without objection, so ordered.

[The statement of Mr. Brady follows:]

CHA Ranking Member Brady's Statement
Hearing on: Library of Congress: 2012 Inspector General Report on Library-Wide
Acquisitions
7/19/2012

I want to thank Chairmen Lungren and Gingrey for convening this hearing. The Library of Congress is a national treasure and with rigorous and comprehensive oversight we can ensure that it remains that way.

The federal acquisition process is an exceptionally important but often hidden aspect of government operations. The sheer variance between the types of contracts and services, as well as the sums of money involved, requires that constant attention be paid to the process to address any early complications before they become unmanageable problems. Eliminating waste, fraud, and abuse in our agencies is a goal that everyone can get behind and it is my hope that this hearing along with subsequent exercises of our oversight duties will achieve just that.

It is also essential that inspectors general and agency management work together in a cooperative and professional manner that's beneficial to the agency as a whole. Together, we can make sure our agencies are running efficiently and productively. I hope this hearing results in some good ideas for how to fix the Library's acquisition process.

Mr. GONZALEZ. Thank you, Mr. Chairman.

It is good to see this subcommittee in action again, as our oversight role is one of the most important things that Congress can do for this country.

I share the chairman's concern that the Federal Government have a procurement process that works for the American people. Many of the most vocal complaints about the first decade of this century centered around the practice of granting billions of dollars in no-bid contracts, especially during the wars in Iraq and Afghanistan. Our Senate colleagues, Senators Claire McCaskill and Jim Webb, created the Commission on Wartime Contracting to stamp out the waste, fraud, and abuse that was costing the Federal Government money. And I hope that there will be a bipartisan bill introduced, obviously, in the Senate in June that will overhaul wartime contracting practices, and that we in the House will act accordingly and support our Senate colleagues.

Fortunately, today we are looking only at the concerns about waste, without the fraud or abuse we have seen among now notorious defense contractors and healthcare companies, one of which paid what was, until earlier this month, the largest fraud settlement in United States history, \$2 billion in criminal fines and civil penalties for systematically defrauding Federal healthcare programs. But the inspector general has produced a report of serious problems, and I am pleased that the Library has agreed to many of the recommendations, and that the committee has taken an interest in how to improve the procedures at the Library.

Just as that Medicare fraud suit was a bipartisan effort begun under Attorney General Reno and completed under Attorney General Ashcroft, oversight should always be a bipartisan effort. In that spirit I will not extend my remarks much beyond what the chairman has already said. But I was struck by the report's notation, quote, "With the exception of the head of contracts, no contracting specialist at the Library has been on the job for more than 9 months," end quote. Such high rates of turnover are, indeed, troubling both for what they may indicate about the office and for additional costs that they may cause. I will be most interested to hear what the witnesses have to say about this particular detail of the report.

With that, Mr. Chairman, I yield back.

Mr. GINGREY. I thank the gentleman.

I now call on my colleague, who passes on an opening statement.

I would now like to introduce our witnesses. Karl Schornagel was appointed inspector general of the Library of Congress in March of 2001. Prior to his appointment with the Library, Mr. Schornagel served as a senior auditor in the Office of Inspector General in the Department of Commerce. There he helped establish policies related to Government Accounting Office auditing standards, and he conducted internal quality reviews of compliance with audit and inspection standards. Mr. Schornagel began his career in 1979 as a junior auditor in the Treasury Department's Financial Management Service.

Our second witness, Robert Dizard, Jr., is now the Deputy Librarian of Congress. Prior to this recent appointment, Mr. Dizard had served the Library for 22 years in various capacities, including

Deputy Associate Librarian for Library Services and Staff Director and Chief Operating Officer of the United States Copyright Office. Most recently he served as Chief of Staff to the Librarian of Congress.

The third witness is Lucy D. Suddreth. Ms. Suddreth is the Chief of Support Operations for the Library of Congress, where she has served since June of 2010. Ms. Suddreth is responsible for supervising the Directors of Human Resources, Integrated Support Services, the Office of Opportunity Inclusiveness and Compliance, Contracts and Grants Management, and Security and Emergency Preparedness. Ms. Suddreth began her service at the Library in 1990 and has previously served as Assistant Chief Operating Officer and Acting Director of Operations, Management, and Training.

We thank all of you for being here today. The committee has received your written testimony. At the appropriate time I will recognize each of you for 5 minutes to present a summary of that submission. To help you keep time, we have a timing device near the witness table—in fact, two of them. The device will emit a green light for 4 minutes, and it will then turn yellow when 1 minute remains. When the light turns red, it means your time has expired.

I am pretty light on the gavel, so don't feel like you have to race through your presentation. We want very much to hear from you and realize the importance that we hear you loud and clear.

Mr. Inspector General, we will start with you. Will you please proceed.

STATEMENT OF KARL W. SCHORNAGEL, INSPECTOR GENERAL, LIBRARY OF CONGRESS; ROBERT DIZARD, JR., DEPUTY LIBRARIAN, LIBRARY OF CONGRESS; AND LUCY D. SUDDRETH, CHIEF OF SUPPORT OPERATIONS, LIBRARY OF CONGRESS

STATEMENT OF KARL W. SCHORNAGEL

Mr. SCHORNAGEL. Chairman Gingrey and members of the subcommittee, I am pleased to address my office's recent reassessment of the state of contracting activities at the Library of Congress. The contracting function is a critically important aspect of the Library's operations, accounting for more than \$200 million in annual expenditures. Due to the breadth, depth, and duration of problems found, the Library faces a major challenge to demonstrate to taxpayers that it is a good steward of its contracting funds.

To maintain public trust and fulfill public policy objectives, an effective contracting function should efficiently address customer needs and obtain the best value. The success of any public contracting system is rooted in proper internal controls that, if adhered to through effective management and oversight, promote transparency, accountability, competition, and ultimately protect resources from fraud, waste, abuse, and mismanagement.

The Library has a well-documented history of problems in its Office of Contracts Management, OCM, as we have repeatedly reported over the last 10 years. Based on our ongoing concerns, we engaged Jefferson Solutions to perform an evaluation of the current state of the Library's OCM.

The findings and more than 50 recommendations are summarized in 3 categories: First, the management of the contracting

function. We report staff lacking sufficient contracting knowledge and experience; lack of supervision and training that likely contribute to an extremely high staff turnover rate and low morale; no infrastructure component to address policy, training, and reporting matters; organizational misalignment and a lack of definition of the OCM management structure; lack of continuity in leadership—the senior procurement executive position has only been filled for 2 of the last 9 years; the absence of a performance management tool; and inadequate requirements for reviewing procurements under \$100,000, and an ineffective Contracts Review Board for contracts over \$100,000 that does not prevent or detect deficiencies in the contracting process.

The second category, technical issues. We report a lack of adequate planning; deficient market research supporting independent government cost estimates; a gross lack of competition—of the 129 randomly selected contracts valued at \$52 million, more than half were awarded noncompetitively; poorly defined requirements; inadequate government cost estimates needed to check the fairness and reasonableness of vendor quotes; lack of justification for the use of risky labor-hour contracts; overuse of nonpersonal services contracts for experts and consultants that avoid competition, sometimes for readily available services; mischaracterization of contract types; pervasive incorrect use and exercise of contract options; and a misconfigured contract writing tool for inserting critical contract clauses.

Third category, customers. We report poor communication and cooperation between the OCM and its customers; customers lacking understanding of their roles and responsibilities for planning and executing contracts; contracting officer's representatives inadequately trained; and lack of current and useful policies and procedures.

Further, the Library does not track any performance metrics related to effective contracting and administration of the OCM, even though Library management knows about these longstanding problems and is aware that program managers and staff receive poor-quality contracting services.

An area that stands out in particular is that the OCM does not consistently promote or ensure full and open competition, or ascertain whether it is receiving the best price. Consequently, the Library is likely paying more for services and supplies and/or limiting access to offerers who may provide superior technical approaches and solutions.

Despite bringing these and other problems to management's attention in five prior audits and memoranda between 2002 and 2008, we conclude that Library management's corrective efforts have been unsuccessful, and that there has been further deterioration in the function. The extent of problems found during this review is troubling, considering Library management asserted that it had corrected the vast majority of the conditions identified in this and our comprehensive 2008 report.

The government has established procurement regulations and best practices for competing contracts, comparing costs, and determining price reasonableness for the express purpose of maximizing the taxpayers' purchasing dollar. The Library's continued non-

compliance with these guidelines, along with ineffective management in the OCM and the lack of accountability, expose the Library to a high risk of costly inefficiencies and waste of funds.

Thank you.

Mr. GINGREY. Thank you.

[The statement of Mr. Schornagel follows:]

Testimony of Karl W. Schornagel
Inspector General, the Library of Congress
Before the Committee on House Administration
Subcommittee on Oversight
United States House of Representatives
July 19, 2012

Chairman Gingrey, Ms. Lofgren, and members of the committee, I am pleased to address with you today the Office of the Inspector General's recent reassessment of the state of contracting activities at the Library of Congress as discussed in audit report 2011-SP-106, *Ongoing Weaknesses in the Acquisition Function Require a Senior Management Solution*, March 2012. Due to the breadth, depth, and duration of problems documented in this report, the Library of Congress faces a major challenge to demonstrate to the taxpayers that it is a good steward of its contracting funds.

To maintain public trust and fulfill public policy objectives, an effective contracting function should provide timely acquisition of the right goods and services while efficiently addressing customer needs and obtaining the best value. The success of any public contracting system is rooted in law and policies with appropriate internal controls. If these controls are adhered to through effective management and oversight, they promote transparency, accountability, competition, and ultimately protect resources from fraud, waste, abuse, and mismanagement. The contracting function is critically important to the Library and U.S. taxpayers, because next to the cost of its employees, contracting accounts for most of the Library's budget resources; in this case, more than \$200 million annually.

The Library has a well-documented history of problems in its Office of Contracts Management (OCM), as we have repeatedly reported over the last 10 years. Based on our ongoing concerns, we engaged Jefferson Solutions (Jefferson), a consulting firm with expertise in the federal acquisitions process, to perform an evaluation of the current state of the Library's OCM as a follow-up to our last report in 2008. The following summary provides the results of Jefferson's evaluation.

Management of the Contracting Function—Jefferson identified many deficiencies and weaknesses in the OCM's management, including:

- staff lacking sufficient contracting knowledge and experience – there has been little emphasis on competency certifications;
- lack of supervision and training that likely contribute to an extremely high staff turnover rate and low morale – only one supervisory contract specialist to review and mentor 14 staff, no one monitoring training needs, and nearly 100% contract specialist turnover in 2010;
- problems with infrastructure – there is no component to address policy, training, and reporting matters;

- organizational misalignment and lack of definition of the OCM management structure – the distinct roles and responsibilities of the three tiers of management in the OCM are not defined;
- lack of continuity in executive leadership – the senior procurement executive position has only been filled for two of the nine years it has existed;
- absence of a management tool to measure the contracting function's performance – there are no outcome-oriented performance metrics to measure success; and
- inadequate requirements for reviewing procurements under \$100,000, coupled with an ineffective Contracts Review Board for contracts over \$100,000 that does not prevent or detect deficiencies in the contracting process – often a superficial paper drill that does not document deficiencies or their resolution.

Technical Issues—Jefferson identified numerous technical deficiencies at critical steps in the contracting process, such as:

- the lack of adequate planning – this results in rushed awards and insufficient time to establish competition;
- deficient market research – needed to prepare independent government cost estimates to help evaluate contract proposals;
- a gross lack of competition – of the 129 randomly selected contracts valued at \$52 million, more than half were awarded noncompetitively;
- poorly defined requirements – inadequate statements of work and proposed government contracts are often not advertized;
- inadequate (and in some cases missing) government cost estimates – needed to analyze the fairness and reasonableness of vendor quotes for goods and services;
- lack of justification for the use of labor-hour contracts – these are probably the most risky types of contracts;
- overuse of non-personal services contracts for experts and consultants – avoiding competition for readily available services;
- mischaracterization of contract types – resulting in the exclusion of clauses that stipulate the government's rights and privileges;
- pervasive incorrect use and exercise of contract options – options are added after contracts are in place and not adequately documented; and a
- misconfigured contract writing tool for inserting critical clauses into Library contracts – the financial system module makes contract specialist's jobs more difficult, labor intensive, and prone to error.

Customers—Jefferson's evaluation identified several problems relating to the OCM's interactions with customers in the areas of planning, knowledge, responsibilities, and service. These problems included:

- poor communication and cooperation between the OCM and its customers (including instances where customers were discouraged from communicating with the OCM) – this negatively affects acquisition planning, resolution of conflicts, and effective contract monitoring;

- customers lacking understanding of their roles and responsibilities related to planning and executing contracts – this results from insufficient guidance and accountability for performance and contributes to the overuse of sole source contracts;
- Contracting Officer's Representatives (COR) inadequately trained to perform their duties – no accountability for training and assigning COR responsibility; and
- lack of current and useful policies and procedures – these are necessary for OCM staff, CORs, and program managers.

Further, this review revealed that the Library does not track any performance metrics related to effective contracting and administration of the OCM, even though Library management knows about these long-standing problems and is aware that program managers and staff receive poor quality services from the OCM.

An area that stands out in particular is that the OCM does not consistently promote or ensure full and open competition or ascertain whether or not it is receiving the best price. By not taking advantage of opportunities for competition, the Library is likely paying more for services and supplies and/or limiting access to offerors who may provide superior technical approaches and solutions. Healthy competition is the lifeblood of commerce: it increases the likelihood of efficiencies and innovations, and reduces waste.

Despite bringing these and other problems to management's attention in five prior audits and memoranda between 2002 and 2008, we conclude in this report that senior Library management's corrective efforts have been unsuccessful and that there has been further deterioration in the function. The extent of deficiencies and weaknesses found during this review is troubling considering Library management asserted that it had corrected the vast majority of the conditions identified in this and our comprehensive 2008 report.

The government has established procurement regulations and best practices for competing contracts, comparing costs, and determining price reasonableness for the express purpose of maximizing the taxpayer's purchasing dollar. The Library's continued noncompliance with these guidelines, along with ineffective management in the OCM and lack of accountability, expose the Library to a high risk of costly inefficiencies and waste of funds.

With this multitude of issues and a problematic acquisition culture in the OCM, the Library cannot claim that it is paying fair and reasonable prices for its goods and services, or even that it is not making improper or inappropriate purchases. The Library may very well be paying a high or unreasonable price for the supplies and services it purchases.

In our view, if the Library is to be accountable for its \$210 million in annual procurement actions, executive leadership must fully commit to, and aggressively implement, a comprehensive corrective action plan that specifically and thoroughly addresses the more than 50 recommendations provided in the report.

Importantly, Library management, in its response to our draft audit report, concurred with all recommendations except four regarding the financial system module used to write contracts.

This audit report was not made available for public release in its entirety due to its analysis of specific contract information that could open the Library to risk if published. A redacted version is submitted for the public record of this hearing. The redacted version can also be accessed on our Web site at www.loc.gov/about/oig or from the Library of Congress Web site at www.loc.gov under 'Inspector General.'

This concludes my testimony.

Mr. GINGREY. Before I call on the next witness for his testimony, I want to say that, by a previous agreement, it is my understanding, Ms. Suddreth, that you have submitted your remarks, but not be giving an oral, and that is fine.

So we will hear from our last witness before we get into the questions of all three of the witnesses.

Mr. Dizard, you have 5 minutes.

STATEMENT OF ROBERT DIZARD, JR.

Mr. DIZARD. Thank you, Mr. Chairman.

Chairman Gingrey, Mr. Gonzalez, members of the subcommittee, my written statement reviews, and I will now summarize further, the work the Library has undertaken in the past 24 months to develop an efficient and stable contracting operation, a need again emphasized in the inspector general's report. And I hope, Mr. Chairman, to address some of the questions that you have raised in your opening remarks.

I fully appreciate the committee's concerns about the issues raised in the report and the need for senior management of the Library to show that these issues are being effectively addressed.

As you mentioned, I am joined today by Lucy Suddreth, the Library's Chief of Support Operations, in whose service unit the Office of Contracts has been located, and who has overseen much of the work outlined in my testimony.

Like all agencies, the Library depends on contracts for goods and services to support our mission. Last fiscal year, as you have noted, approximately 30 percent of our budget was spent through contracts issued by the Office of Contracts. Mr. Chairman, I believe we have in the past 24 months established a senior management focus and a series of actions that will, with sustained attention, address the problems we have had and result in a stable and efficient contracts operation.

I think it is important to note that the issues we are dealing with have not involved fraud or abuse in contracts processing or execution. They are fundamentally management-related. Even so, we are executing the Library's budget, and contracts are being processed for our programs. We just need to do a better job of it.

In June 2010, I was appointed Library Chief of Staff, and Ms. Suddreth was appointed Chief of Support Operations. From the start we both gave this area priority attention. Since that time some of the actions we have taken to address contracting operations issues include the following: We have hired 19 new staff members to work in the Office of Contracts. We now have 33 staff in the office compared to 19 in January of 2011. We have additionally added two new supervisory positions to the staff.

Our contracting specialists have completed approximately 1,200 hours of Federal certification training. Last fiscal year we began to implement the Office of Federal Procurement Policy's new training curriculum for certifying contracting officer representatives in our program offices so that they fully understand their own responsibilities in the contracts process. Two hundred twenty-four staff members have gone through this 5-day training.

A procurement planning component has been included in our new Library budget system, which will be implemented on October 1.

Finally, we have transitioned the competition advocate role to our general counsel's office. As of July 1, the general counsel's office is reviewing solicitations before they are issued to ensure that contracts are being properly competed.

These actions, I believe, address in part the root causes identified in the IG's report and are consistent with the report's recommendations.

In June, the House Committee on Appropriations issued House Report 112-511, which included language directing the Librarian to either hire, contract for, or assign an in-house top-level manager, reporting directly to the Chief of Staff and charged with addressing, providing solutions to, and bringing to closure all concerns in the inspector general's report. In response to this language, I have detailed Mr. Edward Jablonski to the Office of Contracts. Mr. Jablonski is the Associate Director for Finance and Administration in the Congressional Research Service. This is his fourth week in the Office of Contracts, and he is reporting directly to me.

The work we started in June 2010 will continue as a priority for me and for our senior management team even as we work to complete contracts processing this fiscal year. If there is a major difference between what we are doing now and what has been done in the past to address this issue, it is that we are now taking an institutionwide approach to the program, not viewing it simply as a contracts office problem. We recognize that only with cooperation and collaboration among our contract specialists, our program offices, and our financial management and legal staff are we able to address the primary issues involved here.

Mr. Chairman, I can speak for myself and the Librarian in stating that we will sustain our attention and focus in this area. We know that effective contracts administration is essential to the proper and efficient provision of the Library's services to the Congress and to the Nation. We also know that we need to address these issues fully and enduringly. We will continue to report our progress to the committee, and we are happy to answer any questions now.

Mr. GINGREY. Thank you, Mr. Dizard.
[The statement of Mr. Dizard follows:]

Statement of Robert Dizard Jr.
Deputy Librarian of Congress
Before the
Subcommittee on Oversight, Committee on House Administration
“Library of Congress: 2012 Inspector General Report on Library-Wide Acquisitions”
U.S. House of Representatives
Thursday, July 19, 2012

Chairman Gingrey, Ranking Member Lofgren, Members of the Subcommittee, my testimony today will review the work the Library has undertaken in the past two years to develop an efficient and stable contracting operation, a need again emphasized in a report issued by the Library’s Inspector General in March 2012 titled “Library-Wide Acquisition Function.”¹ I fully appreciate the Committee’s concerns about the issues noted in the report and the need for senior management of the Library to show that these issues are being effectively addressed.

I am joined today by Lucy D. Suddreth, the Library’s Chief of Support Operations, in whose service unit the Office of Contracts has been located and who has overseen much of the work outlined in this testimony.

Library Contract Activities and Administration

As with all agencies, the Library depends on contracts for goods and services to support our mission. With the key exception of purchases for the collections, which are handled by librarians in the Acquisitions and Bibliographic Access directorate, the Library’s procurement is handled by the contracting officers in the Library’s Office of Contracts and Grants Management.²

Last fiscal year, approximately 30.6 percent of our total budget of \$671.5 million was spent on contracts issued by the Contracts Office. Some of the services and goods we contracted for in Fiscal Year 2011 include:

- Mass deacidification of books and manuscripts. This is a three decades-long program to extend the useful lives of our more brittle items by as much as 300 years by putting them through a treatment process to remove acidity in the paper.

¹ In the Library, “acquisition” is a term of art that refers only to building the collections, through purchase, subscription, gift, etc. Rather than using “acquisition” in the generic Federal sense, we refer to all non-collections contracting as “contracting” or “procurement.” The IG report addressed the contracting function, not acquisition of collections.

² There are other minor exceptions to the requirement that non-collections contracts go through the Contracts Office, for example: the Congressional Research Service has statutory authority to issue its own contracts for expert services (2 U.S.C. § 166(h)); the Music Division deals directly with the performers in the Library’s concert series; and the IG has authority to contract directly for audit services.

- The manufacture of digital talking book machines and the production of digital book and magazine recordings for the use of blind and physically handicapped Americans across the country.
- Our custodial services.
- Information technology hardware, software and maintenance.
- Hundreds of transactions for regular supplies and other program needs.

With minor exceptions, all the Library's non-collections contracts go through a single point: the Office of Contracts in the Office of Contracts and Grants Management.

As an agency in the legislative branch, the Library is not subject to all of the detailed laws that govern procurement by the Department of Defense or civilian agencies in the executive branch. We are, of course, subject to the basics – a statutory requirement for competition, the Service Contract Act, GAO bid protest jurisdiction, and the Contracts Disputes Act.

Nevertheless, to take advantage of an existing and comprehensive Government contracting framework, as a matter of policy, the Library has adopted the executive branch's Federal Acquisition Regulation (the "FAR") to guide its contracting. We adopted it because it guides agency staff through all types of contracting scenarios, provides well-tested contract clauses, and is well understood by the vendor community. We have not, however, adopted the FAR for acquisitions for the collections³ or for contracts with speakers, performers, arbitrators or similar individuals.⁴

All agencies that follow the FAR, the Library included, are able to deviate from the FAR when circumstances warrant. The FAR itself provides specific instructions on justifying and documenting such deviations. In the Library, for example, while we regularly follow the FAR for contracts funded with gift funds, if FAR processes would frustrate the terms of a donor's gift, we will take a deviation and document it.

When the Contracts Office handles a procurement, they: assess the requirement; determine a contracting approach (full and open competition or not, new contract or order against a GSA contract or other existing vehicle, etc.); develop a solicitation and independent cost estimate; solicit offers through the *FedBizOpps* website, GSA Advantage or other appropriate channel; review offers; negotiate where appropriate; and execute a contract document. They work with the program office throughout the planning and source selection process and through the contract administration phase.

³ There is no advantage to using FAR procedures, for example, with the overseas vendors from whom we acquire foreign materials, or in producing sole source documentation to buy directly from publishers or owners of manuscripts.

⁴ Contracts with individuals are handled under a separate Library regulation in accordance with 41 U.S.C. §6101, not under the FAR.

A Library-Wide Task

The Library's acquisitions function is dependent upon a skilled contracting workforce, effective organizational leadership, trained contracting representatives, cooperation among internal organizations, and sound acquisition planning. To process our contracts efficiently and properly we need an Office of Contracts staff that is adequate in number, properly trained, and that has the policies and tools needed to do the job.

However, our requirements for a smooth contracts operation go beyond the Office of Contracts. Staff in our program offices need to have a good understanding of Government contracting principles and procedures so that they can clearly define requirements, review proposals, and monitor contractor performance. The Chief Financial Officer provides key financial and technology assistance and the General Counsel reviews contracts for legal sufficiency. All of these organizational units must be in regular communication with each other on contracts matters. They must work together – both on a macro level, developing annual contracting plans for the Library, and on a micro level, on teams for individual procurements.

The Library-wide nature of contracting operations means that the responsibility ultimately falls to senior Library management to ensure that units are working together in this area.

Current Status

Mr. Chairman, the Library does not now have, nor has it had in recent years, an operation across the agency that processes contracts in a timely and efficient manner to meet program needs. I believe we have, however, established a senior management focus and series of actions over the past two years that will, with sustained attention, address the problems we have had and result in a stable and efficient contracts operation.

It is important to note that the issues we are dealing with are fundamentally management-related. They have not involved fraud or abuse in contracts processing or execution. The management issues are, however, broad and substantial.

Our Work Over the Past 24 Months

When I was appointed Library Chief of Staff in June 2010, I knew that our contracts operations required immediate focus. Ms. Suddreth was appointed Chief of Support Operations at the same time and she shared this view. We gave this area joint and urgent focus. We also realized that this was not simply a task limited to the Office of Contracts, but one that also required greater understanding across the Library on contracts formulation, award and execution. In response to a change in leadership in the the Contracts Office in the final months of Fiscal Year 2010, we assembled a team of

Library senior professionals to oversee the successful execution of the procurement cycle. The Library's General Counsel and Chief Financial Officer were brought in to this effort from the start and remain very involved.

The situation we faced in June 2010 exemplified a challenge we continue to face: with 90 days left in the fiscal year, the first priority had to be to process the work that needed to be done before the fiscal year ended. Any long-term changes in the contracts operation needed to be considered while keeping the work flowing; it was not an option to shut down operations and regroup.

Since that time, the following are the principal actions we have taken to address contracting operations issues:

– *Office of Contracts Staffing*

Assessment of staffing needs, and recruitment of qualified Contracts Office staff, were prerequisites to achieving long-term stability of contracts operations.

Between January 2011 and May of this year we hired 19 new staff members to work in the Contracts Office. We now have 33 staff in the Office of Contracts (compared with 19 as of January 2011). Twenty of these are contract specialists, including two additional GS-14 supervisors. We have increased the emphasis on performance management and individual development plans, and identified resources for investing in training. The work of the contracting staff is managed by four supervisory contracting officers⁵.

The Inspector General noted in a January 2012 report comparing Library contracts staffing levels to six other agencies that the Office of Contracts staffing levels “are generally on par with those of other agencies. In all of the statistical measures we used to evaluate those levels, the Library came in solidly in the middle or generally in a better circumstance than the other agencies in our review.”⁶

– *Certification of Contracts Specialists*

The executive branch has a three-level certification program for contracting officers and specialists known as Federal Acquisition Certification – Contracts or “FAC-C.” The levels require progressively more experience, education and training in general Government contracting rules and negotiation skills. FAC-C also requires individuals to earn “continuous learning points” in specialty areas of contracting – such as IT contracting, service contracting, performance-based statements of work, greening, and

⁵ Operating under warrants that define the scope of their authority, contracting officers have the legal authority to obligate the United States to contracts. Contracting specialists perform many of the steps in the procurement process, but do not actually negotiate or sign contracts.

⁶ Office of the Inspector General, “Office of Contracts and Grants Management: Comparative Analysis of the Office of Contracts’ Workload and Staffing Levels”, Special Project Report No. 2011-SP-105. January 2012, p. 11.

other initiatives. More complex procurements are assigned to individuals with higher level certifications.

In Fiscal Year 2011 we began to require that our contracting staff obtain FAC-C certification. To date, our contract specialists have completed approximately 1200 hours of training. We have also been looking for FAC-C certification in our new hires; three of our newest supervisory contracting officers are Level III-certified, four are Level II, and seven are Level I.

– Contracting Officer's Representative Training

Just as our contracts staff are being given updated training, we are training the program office staff in the service units who serve as contracting officer's representatives or "CORs." These individuals work with our contracting officers to develop statements of work and independent Government cost estimates, and then sit on panels to evaluate vendor proposals. Once a contract has been awarded, they represent the contracting officer in day-to-day dealings with the vendor: answering questions, reviewing and accepting deliverables, keeping the work on schedule, letting the contracting officer know about any problems, and – most importantly – approving invoices for payment.

Last fiscal year, we began to implement the Office of Federal Procurement Policy's new training curriculum for certification of Level I and Level II CORs. We began the "FAC-COR" training in the second quarter of this fiscal year. To date 224 individuals have been trained, and the training continues.

We have also worked with the service units to explain the roles and responsibilities of CORs and to confirm the proper assignment of this function in their organizations. This led to a reduction of such designations from 700 to 504 individuals. These staff members will be tracked for completion of training and certification.

– Increasing Competition

According to the FAR, executive agencies must have a competition advocate who is responsible for promoting full and open competition in the acquisition of commercial items and challenging barriers to competition. A staff member in the Office of Contracts was performing that role for the Library.

Instead, we felt that we could better ensure full and open competition for Library contracts if the competition advocate role were performed outside the Office of Contracts itself and so we developed a plan to transition the competition advocate role to the Office of the General Counsel.

As of July 1, the OGC has begun reviewing solicitations for requirements over \$150,000⁷ – to be sure that the specifications are not biased toward a particular vendor's

⁷ This review threshold aligns with the "simplified acquisition threshold" as defined in FAR 2.101.

products or services, and that the procurement approach (going open market, through GSA, riding another agency's contract, etc.) is viable.

As the competition advocate, the OGC will also be reviewing sole source justifications for contracts over \$25,000⁸, brand name justifications, and justifications for contracting with individuals. We believe bringing the General Counsel into the front end of the procurement process will help ensure that contracts actions are on the right path. To help program offices and contracting specialists prepare better justifications in the circumstances in which contracting without competition is allowed, the OGC is adding material to its website, developing new forms, and will be offering training sessions in August.

– Procurement Planning

We clearly recognize that agency-level planning is essential to managing and executing the proper flow of contracts work throughout each fiscal year. The Library integrated procurement planning into its Fiscal Year 2012 planning and budgeting framework.

Over the past 18 months, we have been developing a new budget system for the Library and we made a procurement planning component one of the requirements for the new system. The full implementation of the budget system will take place beginning October 1, 2012 (fiscal 2013), and the spending plans that service units produce within the budget system will provide the source data for a system-generated, Library-wide, procurement plan to serve as the basis for the Office of Contracts work planning. The budget system will not only force reconciliation of spending and procurement plans in ways that were never before possible, but also enable real-time tracking of execution against both spending and procurement plans so that service units, the Library's Budget Office, and the Office of Contracts will be looking at the same status information at any given time.

We believe that these connected, reconciled, and trackable plans will result in significant improvement in the Library's ability to plan and execute budgets and related contracts actions.

The March 2012 Inspector General Report

During the time much of the activity I have outlined above was underway, the Inspector General was concurrently developing the report he issued in March. Both Ms. Suddreth and I were briefed by the IG while his work was underway and the preliminary findings of the consultant were shared with us.

⁸ The \$25,000 review threshold was chosen because it aligns with the competition threshold in 41 U.S.C. §6101(b)(2)(A).

I believe the report properly frames the challenge we have faced and I fully agree with its conclusion that senior Library management should concentrate on “forming a sustainable, long-term solution to the problem.”⁹ I believe we have done that over the past 24 months. The report cites the ten “Root Causes Creating Procurement Function Weaknesses.”¹⁰ Our work over this period shows our approach recognizes and is aimed at those root causes.

We have responded to the report with a list of actions, many already taken, that correspond to its 51 recommendations. To date, we believe we have implemented or nearly completed implementing 26 of these recommendations.

The House Appropriations Committee Directive

On June 1, 2012, the House Committee on Appropriations issued H. Rept. 112-511. This report included language directing the Librarian to either hire, contract for, or assign an in-house top level manager, reporting directly to the Chief of Staff, charged with addressing, providing solutions to, and bringing to closure all concerns in the Inspector General’s report.¹¹

In response to this language, I have detailed Mr. Edward Jablonski to the Office of Contracts. This is his fourth week in this position. He is reporting directly to me.

Mr. Jablonski is the Associate Director for Finance and Administration in the Congressional Research Service. He has extensive experience in contracts work, both in the Library and in his post as Comptroller of the Naval Sea Systems Command prior to coming to CRS.

Current Priorities

Mr. Chairman, the work we started in June 2010 will continue as a priority for me and for our senior management team. Our first priority is twofold:

- to process the contracts work that remains for the current fiscal year; and
- in doing this, avoid the processing mistakes and errors that were cited in the Inspector General’s report.

We will continue our programs of contract specialist and COR training. It is also important that we retain the staff that we have hired over the past year. We want to provide a work environment for them that allows for a predictable workflow, provides

⁹ Office of the Inspector General, “Library-Wide Acquisition Function: Ongoing Weaknesses in the Acquisition Function Require a Senior Management Solution.” Special Project Report No. 2011-SP-106. March 2012, p. 5.

¹⁰ Ibid. Appendix B, p. 7.

¹¹ Committee on Appropriations, U.S. House of Representatives, House Report 112-511, p. 16.

them with the tools and resources they need, and emphasizes open communication within the Office of Contracts and between the Office and the Library's other units.

We have also begun a concerted effort to define the functional requirements needed by the Office of Contracts in the Library's financial management system (Momentum). We will make sure that Momentum is better configured to aid the work of our contract officers and specialists, and that contracts staff are adequately trained to take advantage of these tools.

When we are confident that this year's work can be fully executed, we will continue our efforts to improve workflow, update our policies and guidance, improve quality assurance, and identify technology requirements for our contracts work. Last fall, we brought in an outside team to help us by assessing each of these areas. This work will help us move forward. We will also verify the proper implementation of the IG's recommendations.

Mr. Chairman, I can assure the Committee that contracts administration has the attention and focus of the Library's senior management. I can speak for myself and the Librarian in stating that we will sustain that attention and focus. We know that effective contracts administration is essential to the proper and efficient provision of the Library's services to the Congress and Nation. We also know that we need to address these issues fully and enduringly. We will continue to report our progress to the Committee.

Mr. GINGREY. And, of course, we will begin the first round—we possibly will have subsequent rounds—but I will start with myself with 5 minutes, and then I will defer to the ranking member and then to Mr. Nugent. I am going to start with you, Mr. Dizard.

As you noted in your testimony recently, the Library was directed to assign someone to report directly to you for 120 days regarding the contracting office. And as I understand it, this person began that work on June 17. The IG report recommends 51 specific recommendations to eliminate, and I quote, “root causes,” unquote, of deficiencies identified in the report. What actions has the appointee taken to implement these recommendations? What progress so far has been made?

Mr. DIZARD. I will say Mr. Jablonski’s main emphasis now is to process the contracts remaining before the fiscal year ends on September 30. On some of the root causes that I think he has already addressed in tandem with trying to get the work out, he has greatly improved, I think, the communications between the contracts office and our program offices. He is also working on technology tools, principally our financial management system. He has met with our system people and our chief financial—

Mr. GINGREY. Well, let me interrupt you and ask you this: Of the 51 recommendations, how many has he addressed?

Mr. DIZARD. Before Mr. Jablonski got there, we had addressed approximately half of them. We first started with addressing the areas of staffing and training, and we have done a lot of work on that. And I would say we addressed those areas well before the IG—

Mr. GINGREY. What assurances do we have that these findings and recommendations will not go unresolved for another 4 years?

Mr. DIZARD. I think the assurance is one that I can give you here now.

Mr. GINGREY. Well, that is what we want.

Mr. DIZARD. Right. I will give you that assurance now. And I think what has been lacking in our past efforts is a full engagement by all of our senior managers, whether it is in the Librarian’s office, as well as our legal managers and financial people.

So I am confident that even before the report, we have had a strong commitment—

Mr. GINGREY. Well, let me take you back to this question. Has the inspector general—we talked about this last report in 2008. We finally get another report in March of this year. Has the inspector general—same guy—regularly briefed you on the necessity of implementing those 2008 recommendations? The same recommendations.

Mr. DIZARD. Well, I can say since I have been chief of staff, the Librarian and the inspector general and I meet every month. This is a regular topic of conversation. I was in regular contact with the IG during this report as well as after. So I think the communications between the inspector general and the Librarian’s office are good.

Mr. GINGREY. Thank you. Let’s let him speak for himself for just a moment on some of the time that I have remaining.

Mr. IG, in a June 7 National Journal Daily article, you are quoted as saying, “The reason this has gone on for 10 years is be-

cause there is a lack of continuity in leadership,” in reference to the shortcomings at the Library. You go on to say, “Beyond that, there really is no excuse. That is not even an excuse. There is really no good reason,” end quote. Arguably there has been consistent leadership at the Library, and yet these problems persist.

Although you couldn’t provide a reason in the National Journal article, could you provide one to the members of this subcommittee?

Mr. SCHORNAGEL. Well, yes. I think it is very simple. There is a position at the Library, the Chief Procurement Executive, that has been vacant for 7 out of the last 9 years. That is the leadership that I am talking about. That is the primary person responsible for these contracting activities.

Mr. GINGREY. You are talking about the position that Ms. Suddreth now holds?

Mr. SCHORNAGEL. No, I am not. It is a position under Ms. Suddreth that is in charge of both contracts and grants.

Mr. GINGREY. To your knowledge—and I am sure you would know—is that position currently filled?

Mr. SCHORNAGEL. No. No, it is not.

Mr. GINGREY. Before your most recent report—the last one was in 2008. Prior to the 2008 report, there was more continuity with reports in 2002, 2003, 2004, and 2007.

If these problems are so drastic, then why was there a 4-year gap between your reports, 2008 and this current one, March 2012? Why 4 years?

Mr. SCHORNAGEL. Well, first of all, we started this most recent assignment in 2011. We had to hire a contractor. Of course, that took a little time. But that project started in 2011.

We do not have the resources to do a comprehensive follow-up on every important job that we do. No IG, Federal IG, in town does. Now, what we do get is semiannually, before we issue our Semiannual Report to Congress, an update as to the status of implementing recommendations. So what we have to do, and what every IG does, is rely on management to make a statement, to certify or attest to the fact that they have implemented a recommendation. So we have to trust the agency. Every once in a while, for a very important job, then, yes, we will go back and do a comprehensive follow-up, but that takes a lot of resources. And in the meantime, between 2008 and this report, we have done many other very important projects that have identified millions of dollars in funds to be put to better use.

Mr. GINGREY. My time has expired. In fact, I have abused my first 5 minutes by a minute and a half, and I will be lenient on my colleagues.

Let me turn it over to the ranking member for his questions.

Mr. GONZALEZ. Thank you very much, Mr. Chairman.

Maybe I overlooked it, but that particular position that we were referring to as being vacant for a number of years is the Office of Contracts and Grants Management?

Mr. SCHORNAGEL. That is correct.

Mr. GONZALEZ. And it has been vacant for how many years?

Mr. SCHORNAGEL. It has been vacant—it was created, actually at, I believe, my recommendation back in 2003, and it wasn’t filled

until 5 years later, in 2008. And then it was vacated again in 2010, and it has not been filled since.

Mr. GONZALEZ. All right. And just how important is that position in order—well, one, would we have avoided many of the problems that we face today had that position been filled? And going forward, the importance of the position. It seems like if something had been vacant off and on for such a period of time, people start figuring that it is not a necessary position.

Mr. SCHORNAGEL. Exactly. Yes. I think if that position had been filled with a competent person—this is the subject matter expert in a Federal agency, a person who develops the strategies, the methodologies, the approaches, the contract types, and is critical in negotiating contracts. This is an extremely critical position. It needs to be filled by someone with a lot of technical contracting experience and also someone who is a good manager. And that position is the one that has been vacant for 7 of the last 9 years.

Mr. GONZALEZ. How many years have you been the inspector general?

Mr. SCHORNAGEL. Eleven years.

Mr. GONZALEZ. Eleven.

Mr. Dizard, you were Chief of Staff previously. You are now Deputy Librarian. How long have you been with the Library?

Mr. DIZARD. Twenty-two years.

Mr. GONZALEZ. Ms. Suddreth, you were actually appointed to the Office of Support Operations in June of 2010, I believe.

Ms. SUDDRETH. That is correct. I have been with the Library for 22 years as well.

Mr. GONZALEZ. Okay. So all of y'all have institutional knowledge. Now, I am not going to charge you with knowledge of the procurement process because that may not have been under your jurisdiction or your familiarity with.

More importantly, what we are trying to do here is not necessarily fix the blame; it is the thing about fix the problem, and we will figure blame, if there is to be blame. We are not talking about fraud. We are not talking about abuse. But are we getting the most value for the taxpayer money? And are we doing it in a fair way where vendors are treated fairly? Because, believe me, we hear from them. My colleagues will tell you about that.

My understanding, Mr. Schornagel, is that almost everybody over in the Library doesn't really contest some of your findings, recommendations, and that they are going to incorporate solutions, and remedies, and processes and such; is that correct?

Mr. SCHORNAGEL. Yes. I certainly hope so. I have confidence in Mr. Dizard's ability to get that done with an adequate plan.

Mr. GONZALEZ. Where is the major area of disagreement that remains outstanding?

Mr. SCHORNAGEL. There was disagreement on four relatively minor findings having to do with whether a contracting module is appropriate for inserting clauses in contracts. There is really no disagreement, I don't believe.

I think the most critical thing, though, is getting quality leadership into the position of Director of Contracts and Grants Management, and then that person will, of course, see to the appropriate

organizational staffing and management needs to really turn the organization around.

Mr. GONZALEZ. Mr. Chairman, I am going to suggest that we be meeting with that particular individual so that we can get this straight. I mean, obviously we have someone that is key to this whole operation and going forward.

And I am running out of time, and, Mr. Dizard, I think you wanted to respond.

Mr. DIZARD. If I may, Mr. Gonzalez, the position that you are referring to was established as an umbrella position over grants and contracts. The senior lead official for contracts has been filled all the time. There have not been vacancies there. Frankly, one of the questions that we have now is whether we need that senior umbrella position at this point, and we will decide that before the year is out. But I don't want to leave the impression that we haven't had leadership in the contracts office. We have.

Mr. GONZALEZ. But I think the inspector general is pointing out that there has been some sort of a deficiency there. And in this particular position, whether we are going to call it the umbrella or the preexisting one, I think you need to get all this straight as far as how is this going to flow. We are never going to get any answers on this, and we are never going to improve.

But I have used up all my time. Thank you. And I yield back, Mr. Chairman.

Mr. GINGREY. Thank you, Mr. Gonzalez.

Mr. NUGENT from Florida for 5 minutes.

Mr. NUGENT. Just to follow up on my friend's comments, this is—from a leadership executive position, this is really a damning report in regards to the leadership of the Library of Congress, particularly when these issues have been, I guess, out there for 10 years. So, you know, as it relates to accountability—and you mentioned the umbrella position. Obviously it wasn't filled for a number of years, and that there may not even be a need for that position. But you do have somebody who is in charge of contracts; is that correct?

Mr. DIZARD. That is correct.

Mr. NUGENT. And how long has that person been in that position?

Mr. DIZARD. Well, this was the position that the Appropriations Committee directed us to put somebody in. They said, get a person over there to manage the contracts office. Prior to that time, we had a person in there for 2 years.

This has been an issue. We have had an unexpected retirement, an illness of a person who was heading the contracts office. The continuity has been a challenge for us.

Mr. NUGENT. And how many people are in the contracts office?

Mr. DIZARD. Right now there are 33.

Mr. NUGENT. And what is the average length of experience?

Mr. DIZARD. Many of them have prior Federal contracting experience, but the average length of experience probably now with us is between 12 and 18 months, with some who have been there much longer, but overall a relatively new staff.

Mr. NUGENT. And from the IG's perspective, is there—I didn't see this in the report—when you mentioned the lack of experience or high turnover, is there a reason for that?

Mr. SCHORNAGEL. Well, yes. You are not going to induce people to stay if you don't have a good structure for helping them, mentoring them, supervising them, providing proper guidance. I mean, that exacerbates the problem of turnover, that has been extremely high.

Mr. NUGENT. Ms. Suddreth, what was your role in regards to—and I saw in here a reference to training and experience and some oversight with that process. What is your role?

Ms. SUDDRETH. In 2010, stabilizing and improving the staffing levels was the first priority. Mr. Schornagel touches on what came into focus for us—what came on our plate to focus on in trying to do that, the first thing being that we needed to first determine what was the appropriate level of staffing for the Library's contract operation, and then what were the types of competencies and skill levels, as well as levels of certification that we needed to also recruit. And we did take into consideration that not only did we face the issues of staff leaving the Library of Congress, but there has been an overall government issue with staff in this particular career series, where there is high turnover. There is a dwindling population of contracting professionals, yet a high demand for those kinds of qualifications. We used all of that, looking at best practices looking across the leg branch as well as the executive branch, and made a decision on what the recruitment plan should be.

Mr. NUGENT. The question that the IG came up with about was the lack of training, or at least that the employees didn't feel, I guess, empowered to do their job. I don't want to put words in your mouth, but that is the impression that I get. What have you done to address that in regards to high turnover?

Ms. SUDDRETH. Two points there. The staff that the inspector general would have interviewed at that time are no longer there. There was a combination of staff. There was a combination of contract staff, and new staff that had come on, and then two to three existing staff.

Overwhelmingly, we have changed the staffing profile of the contracts office. So we have a staff that came in with the prerequisite requirements to fill the job. We have a 74 percent increase in the level of certifications to be able to do their job. So he would see a totally different landscape of employees were that audit to be conducted today.

In addition to that, we have thoroughly concluded what we needed to do to help them with their recertification—receive their certifications as well as to continue other training and—

Mr. NUGENT. So you are telling me today that staff satisfaction will be higher than when this was initially reviewed back—when was the actual review, 2011?

Mr. SCHORNAGEL. We finished the review in January, and we did most of the evaluation work in late 2011.

Mr. NUGENT. So you are telling me today if they were to redo that within the last 8 months that you have improved employee satisfaction, specifically?

Ms. SUDDRETH. I am saying that what staff would tell you is that they are enjoying an adequate span of supervisory control so that they have that opportunity to be mentored. They have the opportunity to have that direct one-on-one counseling about their jobs or advice about their jobs. They would say to you that they have an opportunity to receive training. We have offered them career-ladder positions. There is an alternative work schedule they get to enjoy. Satisfaction would be measured, I guess, from employee to employee.

Mr. NUGENT. If we are going to go to another round, I will yield back.

Mr. GINGREY. I thank the gentleman. And we will do another round. I don't know how many of my colleagues can remain, but I certainly appreciate the first round of questions. Obviously they are important enough that I think we will have a second round, and I certainly intend to ask further questions.

I will recognize myself now for an additional 5 minutes.

Let me—since in the first round, Ms. Suddreth, I ran out of time before I had an opportunity to ask you some questions, given your senior management position—and you just mentioned to us a few minutes ago that you have been with the Library of Congress for—as well as Mr. Dizard—for 22 years—how do you explain the Library's failure to simply and consistently train its procurement staff?

Ms. SUDDRETH. Mr. Chairman, I can't say that I could give you any concrete reasons why that has not occurred. I want to say that since 2008, I have had more direct insight into the Office of Contracts and Grants Management. I know during those times, with the persons who served as Chief of Contracts, there was emphasis on training of staff while there were obviously deficiencies that still needed to be improved.

Mr. GINGREY. Well, do you disagree then with the inspector general's report of 2008 and the more recent report here from March of this year?

Ms. SUDDRETH. I found myself in the position to agree with the IG's findings, but most probably because I was faced with a situation where staff were leaving the Library. The turnover rate was very high, and we needed to, as I said, arrest that so that we could stabilize it and bring people on who would, first, want to come to work at the Library of Congress and, obviously, want to stay here.

Mr. GINGREY. How many recommendations from the March 2012 audit have now been implemented?

Ms. SUDDRETH. I believe that I have completed 26 of those recommendations.

Mr. GINGREY. Are you telling the committee that it would be primarily your responsibility to implement those recommendations?

Ms. SUDDRETH. It has been.

Mr. GINGREY. How will you ensure that the recommendations that haven't as yet been implemented and those that are ongoing will continue to be implemented effectively and efficiently, particularly given the Library's failure—and we have harped on this. I guess "harped" is not the right word, but we have emphasized this—the Library's failure to solve these deficiencies that go back probably 10 years, but let's say at least back to 2008?

Ms. SUDDRETH. Well, I will continue to be a part of senior management and continue to be a part of that focus. I believe the Deputy Librarian has really laid out how he intends to make sure that this occurs going forward.

Mr. GINGREY. Thank you, Ms. Suddreth.

Let me go back to Mr. Schornagel. As inspector general—and you have been around. You have been an inspector general or deputy or involved in an IG department in three different agencies of the Federal Government, so you know what you are doing. You are able to recommend implementation of procedures to fix the problems—well, let me rephrase that. Are you able, as inspector general, to recommend implementation of procedures to fix the problems mentioned in your report, or are you limited just to pointing out that the deficiencies exist, deficiencies maybe in Library leadership, but it is somebody else's responsibility to take care of the problem?

Mr. SCHORNAGEL. Well, yes, it is somebody else's responsibility. That is a very clear distinction made in the Federal IG community that we are not allowed to take part in management of an agency because it compromises our independence. We try to explain as much as we can about the problem, about why it is a problem, about—

Mr. GINGREY. All right. All right. I get that. I get that.

But in my office, my official office here in Washington, my official office in the 11th District of Georgia when I am at home, and indeed even in my campaign office, when I tell somebody to do something, I point out something that is a deficiency, I make a note in my BlackBerry or somewhere, iPad, and I make sure that within a week or two, or a month at the most, that whoever I spoke to in regard to that deficiency has gotten back to me and closed the loop. Don't you do that at least?

Mr. SCHORNAGEL. Oh, absolutely. In fact, we issue a draft report and—after the Library's response to every single recommendation, we do a final report, and then within 30 days after that, they submit a comprehensive corrective action plan.

Mr. GINGREY. Well, if you go 4 years and nothing has changed, it sounds like, to me, you might just be checking a box.

I have used up my second 5 minutes, and I will turn it over to the ranking member.

Mr. GONZALEZ. Thank you very much, Mr. Chairman.

We all are trying to get to the same place, hopefully. And then I will have the last question for the inspector general. But the reason that we are here today is because obviously certain procedures may have been followed that deviated what should have been better or best practices. What we will hear from our constituents—and we live in a very hostile political environment right now when it comes to the Federal dollar. But on page 28—and I want to cover this because this is the stuff that does make the stories, and it is impossible for us, as Members of Congress, to adequately explain to our business community at times.

This is page 28 of the inspector general's report. In contract number—and there is a long number—it is reflected the RFQ was issued on June 16, and responses were received June 21. There was a quote from the vendor dated June 9.

Now, remember, the RFQ was issued June 16; responses received June 21.

But on June 9, there was a quote from a vendor for about \$144,000. There was a second quote from the same vendor dated June 21, which matched the awarded dollar value of the contract. The final evidence is that the service unit provided four possible vendors—so the names were out there, I take it—to the contracting officer. And this is the contracting officer. That is not the contracting umbrella person. I think we have got that straight.

There was no evidence that they were solicited. This was a GSA schedule competitive buy with only one vendor responding. Now, maybe this was an isolated incident, but this is a serious issue not just with the Library of Congress, this happens elsewhere. But it is our responsibility that this does not happen.

Is there an explanation, Ms. Suddreth—and I know you have been there since 2010, and every contract—I am sure you don't go over and read every contract to ensure that process was followed. But how does this happen, where there is some question about an early request being made or a submission prior to the issuance for a request? Then it is updated in compliance with the timeline; and it is the exact amount, obviously, that is eventually awarded, because my understanding would be that it was the only vendor because the others were never solicited. How does that happen?

Ms. SUDDRETH. Mr. Gonzales, I can't speak specifically to this particular example. I can tell you that having read the report, and in working with the Deputy Librarian in putting together an action plan, my feeling and approach was that we need to make sure that it never happens again. If there are things—I would say that there should be stringent policies and procedures as well as quality assurance, a strong quality assurance program, so that this does not happen, and that every action that is taken by any of the staff there, contracting officers or—and I should say to you, contracting officers can also be an employee who is at the GS-13 or GS-14 level, not to complicate the situation—but so that everyone there knows what the proper procedures are.

So a direct answer to your question is I can't speak to this particular example. I decided to deal with it from a more holistic view, and that we needed to make sure that we had very stringent policies and procedures.

Mr. GONZALEZ. Thank you.

My final question is going to be of Mr. Schornagel, and it is going to follow up on the chairman's line of questioning, and that is you have made your report, there is a response and such. Help us figure out what is the best way for us to monitor this and understand whether they are in compliance with the recommendations and any other—obviously their own plan, but recommendations that you would have been making yourself. What do we do? Do we have to have another hearing? Do we meet with the contracting grants person or contract person? I mean, we have got to figure out how we are going to monitor this and get our staff to assist us.

Mr. SCHORNAGEL. It is a very difficult thing that you are asking, and I think there is no shortcut to that. What is necessary for us is to spend the resources to do another comprehensive follow-up much sooner rather than later on this project. Hopefully what I

would suggest is getting a senior-level executive person in charge of contracts at the Library of Congress, make that the head of the contracts office, make it the head of contracts and grants, whatever. But get that person in place; give them a little time, you know, 6 months at least, possibly longer, to really effect these kind of changes; and then my office go in and do another comprehensive follow-up, spend hundreds of hours. It takes really digging deeply to determine whether something has changed or not.

Mr. GONZALEZ. Thank you very much.

I yield back, Mr. Chairman.

Mr. GINGREY. I thank the ranking member.

And I will now yield 5 minutes to the gentleman from Florida Mr. Nugent for a second round.

Mr. NUGENT. Just as a follow-up, you know, as a chief executive officer of an organization, obviously the IG report is a blueprint for you to follow up on issues that have come to light. And specifically when we are talking about taxpayer dollars being utilized appropriately or inappropriately, we don't really know, and we don't also know what kind of savings would have been accomplished had they followed the correct procedures; is that correct?

Mr. SCHORNAGEL. That is correct. We have done some other work on individual contracts and identified some inefficiencies, but it is hard to draw conclusions from the kind of audit that we did in March of 2012.

Mr. NUGENT. As the senior leadership team, when you have an IG's report, you have the draft—and I am very familiar with how this is done. You have the draft, you have an opportunity to respond. If there are issues that you take exception to, you have the ability to respond to those, and there was no negative response on your part. This occurred, obviously, in 2008 and now in 2012. This is like Groundhog Day; everything keeps happening again.

Where in the leadership team has this broken down? I mean, there has got to be accountability here somewhere. And you can't just say, well, you know, at the lower levels we have had constant turnover. Someone in the leadership team has to stand up and say, I am responsible, and here is how we are going to do it better. But what I hear all too often in the bureaucracy here up in Washington, D.C., is that we are very good at, I want to say, deflecting, and at the end of the day—and this is why taxpayers are upset with us—it doesn't seem like there is accountability on anyone's part.

Mr. Dizard.

Mr. DIZARD. I would say very clearly the Office of the Librarian is responsible. There is no doubt about that. And what I think I can answer from my time there—and I have tried to indicate that I recognize this, having been in the Library and been in program offices—is that this was probably the primary management issue that we knew we had to address. But I think what the failure has been in the past, as I have mentioned before, is just to say this is an isolated problem in the contracts office, and we just need to fix that.

And what we are doing now is looking at this across the board, because contracts involve program offices. If program offices don't know what they are doing and do things wrong, that messes up the

contracts process and the office. We have needs in our financial management system. We have gotten our general counsel's office more involved.

So I am not following the practices of the past. What I am trying to say is I am looking at this Library-wide. And I can assure you that our senior management across the Library is not only aware of this situation, but committed to fixing it. And we are not disagreeing with the inspector general's conclusions. I would just say that I think we have been acting on this for 24 months now so that some of the conclusions that he has reached have already been addressed. We have a fully staffed office, a better-trained office. We have trained over 200 of our program offices. We are doing more in terms of competition, ensuring greater competition. So we are in the process now, not all of a sudden responding.

Mr. NUGENT. And I thank you for that.

Ms. Suddreth, you had mentioned that 26 of the recommendations have been implemented, 25 still yet to be implemented. Of those 25 what would you say are the most critical of those 25 that you have not yet implemented?

Ms. SUDDRETH. Drafting policy and procedures, quality assurance, and then making sure that we have the correct technology support for them to do their work.

Mr. NUGENT. When you say policies and procedures, what specifically are you talking about?

Ms. SUDDRETH. I am talking about everything from what I would label as FAR interpretive policies. As you know, this is a heavily regulated profession, so you have to take that which the FAR has said that you must do depending on the kind of contract award that you make. You need to make sure that those are there. There are also standard operating procedures within the office in terms of review, levels of review, levels of approval.

Mr. NUGENT. When was the last time that those policies were reviewed by your office?

Ms. SUDDRETH. We inherited 2008 policies, and in reviewing those policies—that is what also led to part of this action planning—we found them to be woefully inadequate.

Mr. NUGENT. And do you have a timeline as to when that particular aspect of the recommendations will be done?

Ms. SUDDRETH. I have. I have put that into the action plan, looking to have that all addressed by the end of the calendar year. It doesn't mean that work is not ongoing, but at least to be addressed by the end of the calendar year.

Mr. NUGENT. So you expect it to be done by the end of this year, this calendar year?

Ms. SUDDRETH. Yes.

Mr. NUGENT. Okay. I yield back. Thank you.

Mr. GINGREY. I thank the gentleman.

I am going to ask one last question. And certainly my colleagues, if they would like to ask additional questions, I will yield to them when I finish my questions. But I am not going to ask them necessarily to stay around for a third round unless they have a burning desire to ask a question.

But I do want to—before concluding the hearing, I definitely want to ask one last question, and actually it is to Mr. Dizard and

Ms. Suddreth. The inspector general, as I understand it, is the inspector general for all of the operations, the Library of Congress, and there are seven divisions, if you will. We have had oversight hearings on four of them a couple or few months ago, and he gives reports on all seven; does he not? Is that correct, Mr. Dizard?

Mr. DIZARD. Yes, that is correct.

Mr. GINGREY. And from everything that I have heard, the reports have been very good. I won't say sterling, but the Library of Congress is performing pretty darn well except for this one area.

Ms. Suddreth, do you think the inspector general is picking on you?

And I ask Mr. Dizard the same question.

Let us start with Ms. Suddreth.

Ms. SUDDRETH. No, I do not think the inspector general is picking on me.

Mr. GINGREY. Do you think he is spot on?

Ms. SUDDRETH. I think—in looking at the past 2007–2008 reports, I think that he is spot on to still say that the root causes are still there.

Mr. GINGREY. Mr. Dizard.

Mr. DIZARD. I don't think the inspector general is picking on anybody in the Library. In terms of this report, I think it was well presented, well structured and factual, and I think it was, for us, an actionable report, something that we could react to and, confirm what we had been doing.

I think it would have been helpful if there was some context put in the report that was issued in March in terms of what management had already been doing and whether we were on the right track or not. But I don't get to write the reports. Overall the inspector general is very helpful to our management in the work that he does.

Mr. GINGREY. So at the conclusion of this hearing, the three of you are going to go to lunch and have a beer?

Mr. DIZARD. We could do that.

Mr. GINGREY. You could do that. I know that you could do that.

Mr. DIZARD. We could do that. I could probably invite Karl. He would probably say no.

Mr. GINGREY. Do my colleagues have any further questions? No questions?

Well, let me then in conclusion make just a few very brief remarks. I want to thank the witnesses. I think you all three have been very forthright and haven't dodged any of the tough questions, have responded to us. And you can tell from our questions that Members take this hearing very seriously. And we want you to get it right; we want to help you get it right.

Obviously there will be a report issued to the leg branch of the Appropriations Committee, the subcommittee. I think it is due the end of the year, right?

And so it is all about oversight and investigation. You know, many committees of Congress have these subcommittees. I have sat on one in the House Armed Services Committee and the Science Committee, and I am currently on the Oversight and Investigations Subcommittee of Energy and Commerce.

So I understand my role, our role, in regard to this, and it is not one of badgering, and nitpicking, and sitting up here and interrupting you, and being rude to you, and making you feel bad, and throwing bricks and that sort of thing. And I think the ranking member, his demeanor is just like mine, as is Mr. Nugent, the gentleman from Florida.

So I hope you understand, appreciate and accept the tone of this hearing in that light, because we are just trying to make things better. We have a responsibility. We love the Library of Congress and the many things that they provide, you provide, for not only our constituents, but us, Members of Congress. I mean, CRS is an invaluable source of information, unbiased, nonpartisan. So we love what you are doing; we just want to help you do it better.

With that I will call the hearing to a conclusion, and I thank all of our witnesses.

[Whereupon, at 11:35 a.m., the subcommittee was adjourned.]

DANIEL E. LUNGREN, CALIFORNIA
CHAIRMAN

GREGG HARPER, MISSISSIPPI
PHIL GINGREY, GEORGIA
AARON SCHOCK, ILLINOIS
TODD ROKITA, INDIANA
RICH NUGENT, FLORIDA

PHILIP KIKO, STAFF DIRECTOR

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-8281
<http://cha.house.gov>

ROBERT A. BRADY, PENNSYLVANIA
RANKING MINORITY MEMBER

ZOE LOFGREN, CALIFORNIA
CHARLES A. GONZALEZ, TEXAS

ONE HUNDRED TWELFTH
CONGRESS

JAMIE FLEET, MINORITY STAFF DIRECTOR

August 2, 2012

Mr. Karl Schornagel
Inspector General
Library of Congress
101 Independence Avenue, SE
Washington, DC 20544

Dear Mr. Schornagel,

Thank you for testifying during the July 19, 2012 Committee on House Administration Subcommittee on Oversight Hearing on "Library of Congress: 2012 Inspector General Report on Library-Wide Acquisitions." The Committee requests you respond to additional questions that will be made part of the hearing record. Please provide your responses to the following questions to the Committee by **August 16, 2012**.

1. Of the sole source contracts reviewed, what percentage would you consider as bona fide sole source contracts? Did you find any evidence of fraud or abuse in the Library's no-bid or sole source contracts? Were you able to substantiate overspending as a result of sole source contracts by comparing prices to the current marketplace?
2. What is Jefferson Solutions' expertise assessing legislative branch acquisition activities? Have you verified the accuracy of Jefferson's findings?
3. How do you determine how your office resources are allocated between auditing and investigative needs? How do you determine when to conduct audits in-house and when to contract out for them?
4. How does the Federal Acquisition Regulation (FAR) apply to the Library of Congress? How do you determine when it applies and when it does not?
5. Going forward, what is your plan to audit and evaluate the Library's Contracting Office to ensure taxpayer money is not wasted or misallocated?

6. How do you plan to keep the Library's oversight committees informed of the Library's acquisitions status?
7. When do you plan to conduct your next acquisitions-focused audit? Given that the March 2012 audit was the first comprehensive audit since 2008, what assurances can you provide the Subcommittee that it will not be another four years until the next report?

If you have any questions concerning this matter, please feel free to contact Joe Wallace on the Committee staff at (202) 225-8281. Thank you again for your testimony, we look forward to hearing from you.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Phil Gingrey". The signature is written in a cursive, flowing style.

Phil Gingrey, M.D.
Chairman, Subcommittee on Oversight



THE LIBRARY OF CONGRESS
WASHINGTON, D.C. 20540-1060

OFFICE OF THE
INSPECTOR GENERAL

Phil Gingrey, M.D.
Chairman, Subcommittee on Oversight
Committee on House Administration
U. S. House of Representatives
1309 Longworth House Office Building
Washington, DC 20515-6157

August 16, 2012

Dear Chairman Gingrey,

Thank you for your August 2 letter with follow-up questions concerning the July 19, 2012 hearing "Library of Congress: 2012 Inspector General Report on Library-Wide Acquisitions." I have included your questions (in italics) followed by my answers. I have broken out multipart questions and corresponding answers for easier tracking.

1. Of the sole source contracts reviewed, what percentage would you consider as bona fide sole source contracts?

Answer: Of the 68 non-competitive contracts statistically selected and reviewed by Jefferson Solutions, 16 were identified as bona fide;¹ meaning that there appeared to be a proper justification for not obtaining competition. The remaining 52 contracts contained unsupported justifications, or no justifications, for not obtaining competition including, but not limited to:

- a. unique supplies or services that were available from only one or a limited number of sources,
- b. an award to any other source would result in substantial duplication of cost to the government or unacceptable delays would occur,
- c. the Library needs a particular brand name commercial item,

¹ A sole source acquisition ordinarily is justified as bona fide when there is only one responsible source and no other supplies or services will satisfy agency requirements. Sole source awards must be supported by a justification and approval and the agency must publish a synopsis of its intent to procure on a sole source basis. The justification for a sole source award is contained within the contract file, which is the official record of the action taken. Absent documentation in the contract file to detail the complete history of the transaction and the basis for the sole source award, a sole source award could not be established as bona fide.

- d. there is an emergency or compelling urgency, and
- e. any delay caused by competing the procurement would result in serious injury (financial or other) to the government unless competition is limited.

In many cases, justifications that supplies and services were available from only one source was attributed to a lack of market knowledge because there was little or no market research. Likewise, an urgent and compelling need was often caused by a lack of planning for the timeframes needed to award competitive contracts. Importantly, no one in the Library is held accountable for seeking competition when it potentially benefits the government and taxpayer.

1a. *Did you find any evidence of fraud or abuse in the Library's no-bid or sole source contracts?*

Answer: We found wasteful practices and mismanagement in the contracting function as identified in the audit report, but no indications of fraud or abuse of authority.

1b. *Were you able to substantiate overspending as a result of sole source contracts by comparing prices to the current marketplace?*

Answer: Because it is impossible to re-create past market conditions we could not compare prices in the statistically selected Library procurements to determine the amount of overspending. Availability and pricing of products and services can vary significantly over time and product and service providers change, rendering any attempt at comparison questionable at best. There is little doubt however, that savings would have occurred. As an example, Ralph Nash, Professor Emeritus of Law at George Washington University, points out that significant savings result from competition in his February 15, 2011 Daily Caller article *The Case for Competition in Government Acquisitions*.² Professor Nash states: "In 2007, Dr. Jacques Gansler, a respected former under secretary of defense, found that competition during production drives continuous process and product innovation, resulting in higher performance at lower costs. Competitors achieve steeper learning curves. He further found that 13 defense program competitions since 1964 had achieved 12 to 50 percent net savings through split buys."

An Institute for Defense Analysis (IDA) study entitled, *The Effect of Price Competition on Weapon System Acquisition Costs*,³ shows savings of ten percent from split awards in post competition. While both of these references address Defense Department programs, it is clear that competition in general encourages bidders to sharpen their pencils to win an award. The result is beneficial for both the government and the taxpayer. The Government Accountability Office (GAO) reinforces the position in a report to the House Committee on Oversight and Government Reform stating "[t]he benefits of competition in acquiring good and services from the private sector are well established. Competitive

² The article can be found at: <http://dailycaller.com/2011/02/15/the-case-for-competition-in-government-acquisitions/#ixzz1yBhAuofP>.

³ IDA Paper P-1435, September 1979, by George G. Daly, Howard P. Gates, and James A. Schuttinga.

contracts can help save the taxpayer money, improve contractor performance, curb fraud, and promote accountability for results.”⁴

2. *What is Jefferson Solutions’ expertise assessing legislative branch acquisition activities?*

Answer: Best practices are universal and apply equally across the government and private sector. Therefore, Jefferson Solutions’ extensive experience in the executive branch is fully applicable to its review of the Library’s contracting activities. The Library chooses to comply with the vast majority of the Federal Acquisition Regulation that governs the executive branch. The President of Jefferson Solutions, Dr. Allan Burman, served as the federal government’s top procurement executive under three administrations as the Administrator for Federal Procurement Policy. The onsite manager for the work was Jefferson’s Karen O’Brien, a contracts attorney with 25 years of experience. She is an author of key texts in the field of government contracting. Jefferson has reviewed the contracting operations of about 50 federal departments and agencies.

2a. *Have you verified the accuracy of Jefferson’s finding?*

Answer: The Office of the Inspector General (OIG) verified the accuracy of Jefferson’s findings. As part of our normal oversight of experts and consultants under contract to the OIG, we:

- a. reviewed the qualifications of the Jefferson team conducting the review,
- b. outlined the scope and overall methodology of Jefferson’s work,
- c. approved their work plan,
- d. helped Jefferson establish an evaluation approach that stratified the universe of contracting actions for random sampling to ensure statistical validity,
- e. reviewed interim findings and supporting evidence periodically during Jefferson’s fieldwork,
- f. examined documentation of Jefferson’s interviews with contracting and program staff and provided guidance, and
- g. reviewed the contents of Jefferson’s report against the evidence to verify that facts and conclusions were properly supported.

3. *How do you determine how your office resources are allocated between auditing and investigative needs?*

Answer: The OIG is an independent objective office that allocates its resources to best meet its statutory obligations to conduct and supervise audits and investigations that promote economy, efficiency, and effectiveness at the Library in a fair and impartial manner. Resource allocation between audit and investigative workload evolves slowly based in large part on prioritization of the investigative workload; most investigations are *reactive* to complaints and allegations coming from our hotline and referrals from Library management and other sources. Most audits are *proactive* evolving from an annual audit

⁴ July 26, 2010 transmittal of GAO-10-833, *Competition in Federal Contracting*.

plan that establishes a relative priority for each audit; however, some audits are initiated outside the planning cycle based on a compelling need. Audits and investigations are subject to continuous priority reevaluation. Resources for audits are especially inflexible because the duration of these reviews is normally six months. Since my office took responsibility for criminal investigations at the Library in 2005, the number of criminal investigations has tripled, requiring a shift of resources to that function. Currently, we have nine staff devoted to audits and four to investigations, one administrative person and myself, along with a part-time legal counsel provided through an interagency agreement.

3a. How do you determine when to conduct audits in-house and when to contract out for them?

Answer: As a general rule, we hire experts and consultants when we do not have sufficient expertise among our staff. This usually occurs (primarily with audits) when the subject matter is highly technical or specialized. For example, we bring in technical experts periodically to conduct penetration testing on the Library's computer networks to test for vulnerabilities. We brought in a specialized engineering firm to help us evaluate space planning and management. In the case of contracting, we have staff knowledgeable of contracting, but not to the extent of expert consultants such as Jefferson Solutions. An exception to our rule is our contracting for independent public accountants (IPAs) to conduct the Library's financial statements audits. Although we possess the expertise to conduct these audits in-house, the Congress appropriates funding to hire IPAs for the audits as an accepted practice.

4. How does the Federal Acquisition Regulation (FAR) apply to the Library of Congress?

Answer: Per Library of Congress Regulation (LCR) 2110: "It is the policy of the Library to follow the Federal Acquisition Regulation (FAR) (48 CFR Chap. 1) in the procurement of goods and services under this regulation unless a deviation therefrom is determined to be in the best interest of the Library. All deviations from the FAR for procurements under this regulation, either one time or class, shall be documented by a determination and finding prepared in accordance with FAR Subpart 1.7 and approved by the Director of Contracts and Grants Management. Procurements conducted under other LCRs are not subject to the FAR unless specifically made subject thereto by the express terms of the regulation."

One significant area where the Library chooses not to follow the FAR is in the procurement of non-personal services from individuals and contractors. The Library's policy states "[f]ormal competitive procedures such as those specified in the FAR need not be followed when the services are required to be performed by the contractor in person and are of a professional or technical nature... public advertisement of such procurement actions is not required." These are normally contracts with individuals where an employer-employee relationship is not established.

4a. *How do you determine when it applies and when it does not?*

Answer: We do not determine when or whether or not the FAR applies to the Library; that is Library management's responsibility. All policy matters concerning the Library of Congress are determined by Library management, except those that govern operations of the OIG. I am mandated by the *Library of Congress Inspector General Act of 2005*, 2 USC § 185 to "provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness" but cannot establish or implement policy for the Library, or compel the Library to implement the policy recommendations we make. The OIG could not conduct objective, independent reviews (as mandated) of the programs, operations, and activities of the Library of Congress if it made Library policy decisions. It is important to clarify that the OIG is not, and cannot be, responsible for implementing recommendations that it makes to Library management.

5. *Going forward, what is your plan to audit and evaluate the Library's Contracting Office to ensure taxpayer money is not wasted or misallocated?*

Answer: See answer to question 7 below.

6. *How do you plan to keep the Library's oversight committees informed of the Library's acquisition status?*

Answer: The OIG sends copies of all audit reports and Semiannual Reports to Congress to the Subcommittee and other oversight committees. The Semiannual Reports to Congress include comprehensive lists of unimplemented and implemented recommendations from prior periods based on status reports from Library management. Currently there are no other regularly recurring communications between the OIG and the Subcommittee, or other oversight committees, to discuss such issues. In September 2011, we created Top Management Challenges, a section near the front of our semiannual report. The section provides a collective summary of issues that were covered over several years of OIG reviews that in our view represent long-term challenges for the Library. In addition to contracting, the section includes our concerns about facilities, information technology infrastructure, and performance-based budgeting. I propose that we provide a comprehensive briefing to the Subcommittee on Oversight semiannually to discuss OIG work focusing on these areas. The additional focus on these areas in my view, will contribute to solutions.

7. *When do you plan to conduct your next acquisitions-focused audit?*

Answer: The degree of degradation in the contracting function warrants a comprehensive OIG follow-up, and underscores the need for quality and continuous leadership in this critically important function. We plan to conduct the next acquisitions-focused audit six to twelve months after the senior contracts job; whether it is the Chief of the Office of Contracts Management, or the higher level position, Director of Contracts and Grants Management, is permanently filled. A permanent appointment is important to provide assurance that the policy, organizational structure, supervision, and other internal control

improvements implemented in response to our report are sufficient and that staff comply with the changes. Continuity in leadership is critical to ensure improvement is lasting.

7a. Given that the March 2012 audit was the first comprehensive audit since 2008, what assurances can you provide the Subcommittee that it will not be another four years until the next report?

Answer: The cycle for OIG reviews of problematic operations such as the Library's contracting function varies depending on circumstances. In this case, immediately after our March 2008 audit report of the contracts office, the Director of Contracts and Grants Management (the first since the position was established in 2003) was appointed in an acting capacity and made permanent in September 2008. The director briefed me periodically on the progress of improving operations of the Library's contracting function. The OIG also recognized improvements in the way our contracting actions were being processed under the new director's leadership. Consequently, we did not see a compelling need to conduct an immediate comprehensive follow-up to the 2008 audit. The director abruptly resigned in August 2010 and within a few months, the OIG experienced a noticeable decline in the level of service provided by the contracting office. Accordingly, in early Summer 2011 we began soliciting (through the contracts office) a contracting expert to begin another comprehensive audit. A contract was awarded to Jefferson Solutions in September of 2011, with fieldwork performed mostly in the Fall and Winter of 2011/2012 followed by a final report in March 2012.

Thank you for scheduling this hearing that brought needed focus to improving contracting activities at the Library of Congress.

Sincerely,



Karl W. Schornagel
Inspector General

DANIEL E. LUNGREN, CALIFORNIA
CHAIRMAN

GREGG HARPER, MISSISSIPPI
PHIL GINGREY, GEORGIA
AARON SCHOCK, ILLINOIS
TODD ROKITA, INDIANA
RICH NUGENT, FLORIDA

PHILIP KIKO, STAFF DIRECTOR

Congress of the United States
House of Representatives
COMMITTEE ON HOUSE ADMINISTRATION
1309 Longworth House Office Building
Washington, D.C. 20515-6157
(202) 225-8281
<http://cha.house.gov>

ROBERT A. BRADY, PENNSYLVANIA
RANKING MINORITY MEMBER

ZOE LOFGREN, CALIFORNIA
CHARLES A. GONZALEZ, TEXAS

ONE HUNDRED TWELFTH
CONGRESS

JAMIE FLEET, MINORITY STAFF DIRECTOR

August 2, 2012

Mr. Robert Dizard Jr
Deputy Librarian
Library of Congress
101 Independence Avenue, SE
Washington, DC 20543

Dear Mr. Dizard,

Thank you for testifying during the July 19, 2012 Committee on House Administration Subcommittee on Oversight Hearing on "Library of Congress: 2012 Inspector General Report on Library-Wide Acquisitions." The Committee requests you respond to additional questions that will be made part of the hearing record. Please provide your responses to the following questions to the Committee by **August 16, 2012**.

1. In your testimony, you mentioned that the Library is considering eliminating the position of Director of the Office of Contracts and Grants Management. Please explain how the elimination of the position will affect the performance of the Contracting Office at the Library, particularly given that acquisitions comprise over a third of the Library's budget.
2. Of the 51 recommendations made in the Report, which 26 have been completed? Approximately when will the remaining 25 be completed? How do you plan to ensure that the remaining 25 recommendations are implemented effectively and efficiently, particularly given the Library's failure to solve deficiencies mentioned in the 2008 IG report?
3. Going forward, what is your long-term plan to monitor and continuously evaluate the Library's Contracting Office to ensure taxpayer money is not wasted or misallocated?
4. The turnover rate within the Contracting Office has consistently been extremely high. Why have positions within this office been so hard to keep permanently filled?
5. Recommendation ILC.2 suggests LoC "create a method to track all sole source procurements and develop a plan to target a certain percentage of those procurements for

conversion to a competitive track.” LoC, in their response, partially agreed, but also stated “management does not agree that target percentages for conversion should be established.” Why not? What types of acquisitions are generally controlled by a sole source contract? Which current sole source contracts are ripe for conversion to a competitive track?

6. Recommendation I.E.1 is for the Office of Contracts (OC) to “quickly develop and implement a rigorous training program,” to develop training goals, and to ensure all staff members have individual development plans. Currently, the plan seems to be to have all contract specialists become certified at Federal Acquisition Certification in Contracting (FAC-C) Level III within four years. Can this training be accelerated? What is the cost to LoC, if any, of waiting for contract specialists to receive the certification over four years as opposed to three years?
7. Recommendation I.F.1 suggests the Library should “[s]trengthen the oversight process by putting a more rigorous Contract Review Board (CRB) process in place” and the Library agreed, citing the OC’s review and implementation of a quality assurance program. If it hasn’t been already, when will this review be completed? Who else was consulted either before or after the review was implemented? Is there anyone besides OC currently involved in the review? What changes will be implemented? How will this review strengthen OC during the pre-award phase?
8. The IG observed that “lack of effective acquisition planning may have led to hurried reviews and limited the ability to improve competition.” This lack of planning also leads to unpredictable workloads for the following fiscal year, essentially repeating this cycle. Why isn’t planning conducted for an entire year? Would OC develop a planning model that they would be willing to share with us?

If you have any questions concerning this matter, please feel free to contact Joe Wallace on the Committee staff at (202) 225-8281. Thank you again for your testimony, we look forward to hearing from you.

Sincerely Yours,



Phil Gingrey, M.D.
Chairman, Subcommittee on Oversight



Office of the Librarian

THE LIBRARY OF CONGRESS
101 INDEPENDENCE AVENUE, S.E.
WASHINGTON, D.C. 20540-1000

COMMITTEE
HOUSE ADMINISTRATION
2012 AUG 17 AM 11:49

August 16, 2012

Dear Mr. Chairman:

Thank you for the opportunity to respond to additional questions from the Subcommittee on Oversight, related to the subcommittee's July 19, 2012, hearing "Library of Congress: 2012 Inspector General Report on Library-Wide Acquisitions." My responses to these questions augment statements I made during the hearing and also address additional topics of interest to the Subcommittee.

I will be pleased to clarify any statements made in the enclosed document and provide any additional information you might need.

Sincerely,

A handwritten signature in cursive script that reads "Robert Dizart Jr.".

Robert Dizart Jr.
Deputy Librarian of Congress

Enclosure

The Honorable Phil Gingrey, Chairman
Committee on House Administration
Subcommittee on Oversight
U.S. House of Representatives
1309 Longworth House Office Building
Washington, DC 20515

RESPONSES TO QUESTIONS FROM
THE COMMITTEE ON HOUSE ADMINISTRATION
Subcommittee on Oversight
August 16, 2012

1. In your testimony, you mentioned that the Library is considering eliminating the position of Director of the Office of Contracts and Grants Management. Please explain how the elimination of the position will affect the performance of the Contracting Office at the Library, particularly given that acquisitions comprise over a third of the Library's budget.

Response: There are currently three levels of management on the contracts side of the Office of Contracts and Grants Management. We are considering the elimination of one level so that there is more direct accountability to the most senior manager.

2. Of the 51 recommendations made in the Report, which 26 have been completed? Approximately when will the remaining 25 be completed? How do you plan to ensure that the remaining 25 recommendations are implemented effectively and efficiently, particularly given the Library's failure to solve deficiencies mentioned in the 2008 IG report?

Response: We have provided the subcommittee with a table showing the status of each recommendation.

We will have taken initial actions on all recommendations by December 31, 2012. We are aware that it will take continued actions beyond that date to fully execute some of the recommendations.

3. Going forward, what is your long-term plan to monitor and continuously evaluate the Library's Contracting Office to ensure taxpayer money is not wasted or misallocated?

Response: As Deputy Librarian, I will remain directly involved in this area until I determine that both the management and the expertise of the staff are sufficient to avoid problems in the future.

To help with this, we are now setting in place performance measurements and tracking systems that will allow us to more accurately measure the ongoing status of our contracts work. These will be tracked at the Library level.

4. The turnover rate within the Contracting Office has consistently been extremely high. Why have positions within this office been so hard to keep permanently filled?

Response: We think a significant reason has been the lack of workflow planning and the resulting pressure on individual employees to meet tight deadlines that are not often anticipated.

As well-trained and high performing contract specialists are in high demand both inside and outside the federal government, we are focused on creating a much better work environment with better training, more coordination with program staff, and better performance management.

5. Recommendation II.C.2 suggests LoC “create a method to track all sole source procurements and develop a plan to target a certain percentage of those procurements for conversion to a competitive track.” LoC, in their response, partially agreed, but also stated “management does not agree that target percentages for conversion should be established.” Why not? What types of acquisitions are generally controlled by a sole source contract? Which current sole source contracts are ripe for conversion to a competitive track?

Response: All of the Library’s major contracts are competed. Some of the contracts identified in the IG report as “sole source” were goods or services that only a single vendor can provide; others were non-competitively let under the FAR’s “unusual or compelling urgency” exception. In fiscal year 2011, all non-competed contracts constituted less than 16% of the total funding spent for procured goods and services.

At this point, we do not believe that setting numerical targets is an advisable approach. Instead, we plan to look substantively at the types of contracts that have not been competed and identify new approaches for these procurements. We will begin with contracts that were established under the “unusual and compelling urgency” exception.” Using the exception enabled the Library to ensure continuity of critical services; now we must develop competitive specifications for these requirements.

We also want to ensure that we are following FAR processes for non-competitive procurements. We have recently instituted a Competition Advocate (placed outside of the Office of Contracts in our Office of General Counsel) to examine when non-competitive procurements are warranted. The Competition Advocate is now reviewing all sole-source contracts over \$150,000, prior to release of the contract. The Competition Advocate will be working with the Contracts Office and the Office of the Chief Financial Officer to develop methods for tracking data on non-competitive procurements.

In addition, we need to do a better job documenting our justification in those cases where we have determined that the best way to proceed is through a non-competitive process. We are training 200 program office personnel to be more aware of contracting processes and the need to document justifications for sole-source.

6. Recommendation 1.E.1 is for the Office of Contracts (OC) to “quickly develop and implement a rigorous training program,” to develop training goals, and to ensure all staff members have individual development plans. Currently, the plan seems to be to have all contract specialists become certified at Federal Acquisition Certification in Contracting (FAC-C) Level III within four years. Can this training be accelerated? What is the cost to LoC, if any, of waiting for contract specialists to receive the certification over four years as opposed to three years?

Response: We will develop and execute our training program so that contract specialists’ certifications are at the levels needed to properly handle the complexity of the procurement workload. In parallel to the formal FAC-C certification program, we plan to hold regular sessions with the contracting specialists where attorneys from the general counsel’s staff and senior contracting officers will review key contracting principles and procedures, and discuss past problems and lessons learned.

7. Recommendation 1.F.1 suggests the Library should “[s]trengthen the oversight process by putting a more rigorous Contract Review Board (CRB) process in place” and the Library agreed, citing the OC’s review and implementation of a quality assurance program. If it hasn’t been already, when will this review be completed? Who else was consulted either before or after the review was implemented? Is there anyone besides OC currently involved in the review? what changes will be implemented? How will this review strengthen OC during the pre-award phase?

Response: The Contract Review Board is currently being examined to ensure that a rigorous review process is in place.

8. The IG observed that “lack of effective acquisition planning may have led to hurried reviews and limited the ability to improve competition.” This lack of planning also leads to unpredictable workloads for the following fiscal year, essentially repeating this cycle. Why isn’t planning conducted for an entire year? Would OC develop a planning model that they would be willing to share with us?

Response: We have included a procurement component in the new Library budget system, which will be on line for the next fiscal year. This will assist us in developing a comprehensive acquisition (procurement) plan for Fiscal 2013.