

REVIEW OF GSA's OFFICE OF CONGRESSIONAL
AND INTERGOVERNMENTAL AFFAIRS AND THE
OFFICE OF GOVERNMENTWIDE POLICY
REPORT NUMBER A070187/O/A/F08014

September 10, 2008



U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

Date: September 10, 2008

Reply to: Kenneth L. Crompton, Deputy Assistant Inspector General for
Attn of: Acquisition Audits (JA-A)

Subject: Review of GSA's Office of Congressional and Intergovernmental
Affairs and Office of Governmentwide Policy
Report Number A070187/O/A/F08014

To: Kevin Messner, Associate Administrator, Office of Congressional
and Intergovernmental Affairs (S)

This report presents the U.S. General Services Administration's (GSA) Office of Inspector General's review of the establishment of the Office of Congressional and Intergovernmental Affairs and Governmentwide Policy (OCGP), consisting of the Office of Congressional and Intergovernmental Affairs (OCIA) and the Office of Governmentwide Policy (OGP), and GSA's ability to fulfill the independent missions and goals of the two offices. Section 21062 of the Revised Continuing Appropriations Resolution, 2007 (Public Law 110-5), enacted February 15, 2007 prohibited the establishment or operation of OCGP without the explicit approval of the Committees on Appropriations of the House of Representatives and the Senate. In the Consolidated Appropriations Act, 2008 (Public Law 110-161) enacted December 26, 2007, there was no specific mention of the OCGP, but the Act did state that GSA could not use funds to change its organizational structure without Congressional approval.

Objectives, Scope, and Methodology

The objectives of the review were to assess the benefits of establishing the OCGP, consisting of the OGP and OCIA, including evaluating whether the consolidation would encumber administrative and operational controls and fiscal processes. However, once the merger of the OGP and OCIA was prohibited by Congress in the Public Law 110-5, enacted February 15, 2007, we revised the objective to determine how GSA was complying with the Congressional direction.



To accomplish the objectives, we:

- Interviewed associates from the OCIA and the OGP, including the Associate Administrator and Deputy Assistant Associate Administrator.
- Performed an examination of appropriations and spending of the OCIA and OGP.
- Performed a benchmark analysis of how other Federal agencies handle the organization of their legislative and executive functions.
- Reviewed the GSA Order ADM 5440.600, dated December 21, 2006, which established the Office of Congressional and Intergovernmental Affairs and Governmentwide Policy.
- Reviewed the Revised Continuing Appropriations Resolution, 2007, Section 21062 and the Consolidated Appropriations Act, 2008, Section 526, which prohibited GSA from establishing the new OCGP without the prior approval of the Committees on Appropriations.

The audit work was performed between June and November 2007 primarily in GSA Central Office, Washington, DC. Limited audit work was performed in May and June 2008 applicable to a review of appropriate Public Laws. The audit was conducted in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audits to obtain sufficient, appropriate evidence to provide a reasonable basis for our observations based on our audit objectives.

Background

The Office of Congressional and Intergovernmental Affairs (OCIA) advises the Administrator and supervises and maintains agency liaison with all members of Congress and congressional committees. The OCIA:

- prepares and coordinates GSA's annual legislative program;
- communicates GSA's legislative program to the Office of Management and Budget (OMB), Congress, and other interested parties;
- works closely with OMB in the coordination and clearance of all proposed legislation impacting GSA and its programs;
- prepares comments and makes recommendations on all bills submitted by GSA to the President for final action; and
- Initiates, coordinates, and presents briefings to members of Congress and their staff on GSA programs and initiatives.

In December 1995, GSA created the Office of Governmentwide Policy (OGP) to consolidate its policy functions into a single organization. OGP's policymaking authority cover the areas of personal and real property, travel and transportation, information technology, regulatory information and use of federal advisory committees. OGP's strategic direction is to ensure that governmentwide policies encourage agencies to develop and utilize the best, most cost effective management practices for the conduct of their specific programs.

On December 21, 2006, the former GSA Administrator issued GSA Order ADM 5440.600 which established the Office of Congressional and Intergovernmental Affairs and Governmentwide Policy (OCGP) which aligned the OCIA and the OGP under one Associate Administrator. The Order transferred all current functions, positions, personnel, authorities, funds, and other resources to the new organization, with an Associate Administrator, reporting directly to the Administrator, heading the office.

Section 21062 of the Revised Continuing Appropriations Resolution, 2007 enacted on February 15, 2007, prohibited the establishment or operation of OCGP without the approval of Congress. Specifically, the Public Law states:

“Notwithstanding GSA Order ADM 5440 of December 21, 2006, the Office of Governmentwide Policy and the Office of Congressional and Intergovernmental Affairs shall continue to exist and operate separately, and none of the funds appropriated or otherwise made available by this division or any other Act may be used to establish or operate an Office of Congressional and Intergovernmental Affairs and Governmentwide Policy or any combination thereof without the explicit approval of the Committees on Appropriations of the House of Representatives and the Senate.”

In addition, on December 26, 2007, Congress passed the Consolidated Appropriations Act, 2008 which states in Section 526, “...no funds shall be used by the General Services Administration to reorganize its organizational structure without approval by the House and Senate Committees on Appropriations through an operating plan change.”

In response to Section 21062, GSA Order ADM 5440.613, dated July 15, 2008, cancelled GSA Order ADM 5440.600 that directed the merger.

Results of Audit

The objective of our review was initially to assess the benefits of establishing the OCGP, consisting of the OGP and OCIA, including evaluating whether the consolidation would encumber administrative and operational controls and fiscal processes. However, because Congress enacted Public Law 110-5 in February 2007, which states that the OGP and OCIA should continue to operate separately, we did not assess the benefits of establishing the OCGP and instead focused the review on GSA's compliance with Congressional direction. As noted, GSA took action to rescind ADM 5440.600 that would have merged OGP and OCIA, and that action culminated in the recently issued GSA Order ADM 5440.613 (July 15, 2008) which cancelled the Order proposing the merger. In addition, Congress passed Public Law 110-161 in December 2007, restricting GSA from using funds for the purpose of reorganizing its organizational structure unless it obtained prior Committee approval through an agency operating plan. We found no indication that OGP and OCIA funds had been intermingled.

GSA Order

On December 21, 2006, the GSA Administrator signed GSA Order ADM 5440.600 establishing the OCGP. The Order transferred all current functions, positions, personnel, authorities, funds, and other resources to the new organization, with an Associate Administrator, reporting directly to the Administrator. Reporting to the Associate Administrator for OCGP are: the Principal Deputy Associate Administrator for OGP; and the Principal Deputy Associate Administrator for OCIA. That Order was cancelled by ADM 5440.613 on July 15, 2008.

Congressional Requirement

In the Revised Continuing Appropriations Resolution, 2007, Section 21062, enacted on February 15, 2007, Congress prohibited GSA from moving OGP and OCIA into one organization and from expending any appropriated funds to effect such an operation. While we found no evidence that GSA actively implemented the consolidation of the two offices after the enactment of Section 21062 of the Revised Continuing Appropriations Resolution Act of FY 2007, the agency did not rescind Order ADM 5440.600 until July 15, 2008, 17 months after the Congressional prohibition was enacted.

In the Consolidated Appropriations Act, 2008, Section 526, Congress prohibited GSA from using funds to reorganize its organizational structure without the approval of the House and Senate Committees on Appropriations, but did not specifically prohibit GSA from creating the OCGP. GSA's Office of General Counsel analyzed Section 526 of the Consolidated Appropriations Act, 2008 and determined that GSA needs only to inform Congress of changes to the organizational structure that would have an impact on agency appropriations and would be within the Committees' oversight responsibilities.

Funding

Section 21062 of the Revised Continuing Appropriations Resolution, 2007, states that appropriated funds shall not be used to establish or operate the new OCGP organization. We performed an examination of the appropriations and spending of the OCIA and OGP in Fiscal Year 07 to ensure that funds between the two offices were not being comingled. Our review of spending for both the OCIA and OGP did not reveal any comingling of funds.

The GSA Office of General Counsel (OGC) has advised the Office of Inspector General that based on established principles of Federal appropriations law and on the canons of statutory construction, and on certain constitutional law considerations, that OGC views the restrictions in Section 21062 as annual in nature (i.e. applying only for the duration of the fiscal year).

GSA's OGC also issued an opinion interpreting Section 526 of the Consolidated Appropriations Act, 2008, which prohibits GSA from using funds to reorganize its organizational structure without the approval of Congressional Appropriations Committees. OGC concluded that the provision must be narrowly construed and only required GSA to *notify* the Appropriations Committees of agency reorganizational

matters that are germane to the appropriations process and within the oversight jurisdiction of the Appropriations Committees.

While we recognize OGC's opinion on the subject appropriations bills above, in our opinion the appropriation bills provide for a restriction on using funds to reorganize the organizational structure. Thus, in the future, if management decides to make changes to its organizational structure, they must heed the restriction in Section 526 of the Consolidated Appropriations Act, 2008.

Conclusion

With the issuance of GSA Order ADM 5440.613, GSA is in compliance with Congressional direction. However, when management proposes organizational changes, they must notify or obtain approval from Congressional appropriations committees.

Recommendations

We recommend that the Associate Administrator, Office of Congressional and Intergovernmental Affairs:

1. In accordance with applicable laws, ensure that GSA notifies or obtains approval from Congressional appropriations committees prior to implementing organizational changes.

MANAGEMENT COMMENTS

Management generally concurs with the recommendation. Management's response to the report is included in appendix page A-1.

INTERNAL CONTROLS

The original objective of our review was to assess the benefits of establishing the OCGP, consisting of the OGP and OCIA, and determine if the consolidation encumbered internal control and fiscal processes. However, since Congress passed Public Law 110-5 prohibiting the consolidation of the offices, the internal controls of the consolidated office were not examined.



KENNETH L. CROMPTON
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Acquisition Programs Audit Office (JA-A)

APPENDICES

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Management Response



GSA Office of Congressional and Intergovernmental Affairs

September 8, 2008

MEMORANDUM FOR: KENNETH L. CROMPTON
DEPUTY ASSISTANT INSPECTOR GENERAL FOR
ACQUISITION AUDITS (JA-A)

FROM: KEVIN MESSNER
ASSOCIATE ADMINISTRATOR(S)

SUBJECT: Review of GSA's Office of Congressional and
Intergovernmental Affairs and the Office of Governmentwide
Policy
Report Number A070187

I received your draft report on August 21, 2008 regarding GSA's Office of Congressional and Intergovernmental Affairs and the Office of Governmentwide Policy (Draft Audit Report). The Draft Audit Report found that GSA was in compliance with the applicable appropriations provisions but nonetheless included a single recommendation that GSA notifies or obtains approval from Congressional Appropriations Committees prior to implementing organizational changes. You requested additional written comments within 30 calendar days on the Report's recommendation.

The Draft Audit Report recommended:

Recommendation 1

In accordance with applicable laws, ensure that GSA notifies or obtains approval from Congressional appropriations committees prior to implementing organizational changes.

Response

We generally concur with this recommendation. General Counsel (OGC) has a legal opinion that we do not need to obtain approval of the Appropriations Committees in order to accomplish a significant organizational change. Nevertheless, our intention is to comply with the intent of the legislative language, and we would, as a general practice, seek the approval of any significant reorganization from the Appropriations Committees. Our goal is to undertake any significant organizational change through the budget process, which by its very nature requires notification and approval by the Appropriations Committees and Congress. Accordingly, we have already issued guidance from OGC on this matter.

Thank you for your thorough work in this very important matter.

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