



Office of Audits
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U.S. General Services Administration

Audit of PBS's Management of Asbestos at the Chet Holifield Federal Building in Laguna Niguel, California

Report Number A190043/P/4/R22002
February 3, 2022

Executive Summary

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Why We Performed This Audit

We initiated this audit after confirming the merits of a hotline complaint that identified concerns with the GSA Public Buildings Service's (PBS's) management of asbestos at the Chet Holifield Federal Building (CHFB) in Laguna Niguel, California. These concerns included mismanagement of asbestos and misrepresentation of the amount of asbestos in the CHFB. Our objective was to determine whether PBS adheres to applicable asbestos management laws, regulations, and policies at the CHFB to ensure the health and safety of individuals in the building.

What We Found

PBS failed to comply with federal regulations and its own policy for asbestos management at the CHFB. As a result, CHFB tenants, visitors, contractors, and PBS staff are at increased risk of exposure to asbestos-containing materials (ACM).

Based on our audit, we found that PBS:

1. Does not maintain a reliable ACM inventory for the CHFB or update the CHFB asbestos management plan. As a result, PBS cannot ensure that asbestos is managed properly;
2. Failed to notify building occupants of the presence and location of ACM in accordance with federal and state regulations and PBS policy; and
3. Is providing inadequate oversight of the CHFB operations and maintenance (O&M) service contractor.

We also found that the PBS *Asbestos Policy* contains ambiguous and conflicting information, which can result in inconsistent application of the policy by PBS staff and failure to comply with applicable laws and regulations.¹

¹ GSA Order PBS 1000.1, *Asbestos Policy* (March 25, 2015).

What We Recommend

We recommend that:

1. The PBS Regional Commissioner of the Pacific Rim Region develop and implement internal controls to ensure adherence to federal and state regulations and PBS policy for asbestos management. These controls should ensure that PBS:
 - a. Develops and maintains an accurate, current, and complete CHFB ACM inventory.
 - b. Updates the CHFB asbestos management plan when changes are made.
 - c. Notifies all CHFB tenants of the ACM inventory annually.
 - d. Provides adequate O&M service contractor oversight by:
 - i. Requiring contractors to update building operating plans to reflect changes in contract terms and conditions; and
 - ii. Ensuring that PBS acquisition personnel comply with Federal Acquisition Regulation 46.4, *Government Contract Quality Assurance*, requirements for quality assurance surveillance plans.

2. The PBS Commissioner update the PBS *Asbestos Policy* to ensure that it provides clear and consistent guidance. At a minimum, the PBS Commissioner should address the ambiguous and inconsistent guidance governing pre-alteration assessments, asbestos inspections, and ACM inventory as identified in our report.

The PBS Commissioner and PBS Regional Commissioner of the Pacific Rim Region agreed with our recommendations. PBS's written comments are included in their entirety in **Appendix B**.

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Introduction

We performed an audit of the GSA Public Buildings Service's (PBS's) asbestos management at the Chet Holifield Federal Building (CHFB) in Laguna Niguel, California.

Purpose

We initiated this audit after confirming the merits of a hotline complaint that identified concerns with PBS's management of asbestos at the CHFB. These concerns included mismanagement of asbestos and misrepresentation of the amount of asbestos in the CHFB.

Objective

Our objective was to determine whether PBS adheres to applicable asbestos management laws, regulations, and policies at the CHFB to ensure the health and safety of individuals in the building.

See **Appendix A** – Objective, Scope, and Methodology for additional details.

Background

The CHFB is over 1 million square feet and occupied by approximately 3,000 individuals, including both GSA employees and tenant agencies. Construction of the building took place between 1968 and 1971, a time when asbestos-containing materials (ACM) were commonly used in building construction. The CHFB is known for its ziggurat (i.e., tiered) design, as shown in *Figure 1*.

Figure 1 – Chet Holifield Federal Building



Source: Library of Congress, published on July 3, 2006

Asbestos and Related Health Hazards at the CHFB

Asbestos is the name given to a group of naturally occurring minerals that are resistant to heat and corrosion. Because of its fiber strength and heat resistance, asbestos was widely used in building construction materials for insulation and as a fire retardant. Among other things,

asbestos was used in building materials such as insulation, floor tiles, plaster, ceiling tiles, and pipe wrapping.

In the mid-1970's, several types of ACM, such as spray-applied insulation, fireproofing, and acoustical surfacing material, were banned by the U.S. Environmental Protection Agency (EPA) as the health hazards associated with asbestos became increasingly apparent. When ACM are disturbed, tiny asbestos fibers that are too small to see are released into the air. Workers and others who breathe asbestos fibers over a span of many years are at a higher risk of developing asbestos-related diseases. According to the U.S. Department of Health and Human Services' Centers for Disease Control and Prevention, persons occupationally exposed to asbestos have developed several types of life-threatening diseases, including asbestosis (scarring of the lungs), lung cancer, and mesothelioma.

The presence of asbestos in a building does not necessarily mean that the health of building occupants is endangered. According to the EPA, ACM that is in good condition and left undisturbed is unlikely to present a health risk. However, ACM that is damaged or disturbed by seismic activity or through building maintenance, repair, or renovation projects, can release asbestos fibers, creating a potential health hazard.

GSA has been aware of the need to address asbestos within the CHFB for decades. For example, an April 1987 report issued by the U.S. General Accounting Office included a \$9.2 million estimate to remove asbestos in the building.^{2,3} In 1994, GSA requested an ACM survey, which identified both friable and non-friable asbestos in a number of CHFB building systems.

While the CHFB contains several types of ACM, the asbestos-containing spray-on, fire-resistive material applied to the steel framing for the first floor roof structure poses the greatest health concern. This is because this material is friable, meaning it can be crumbled by hand pressure, or shaken loose by seismic or mechanical vibrations.⁴ If disturbed, the friable spray-on, fire-resistive material may readily release airborne fibers that could be inhaled by building occupants.

Laws, Regulations, and Policies Governing ACM and Enforcement

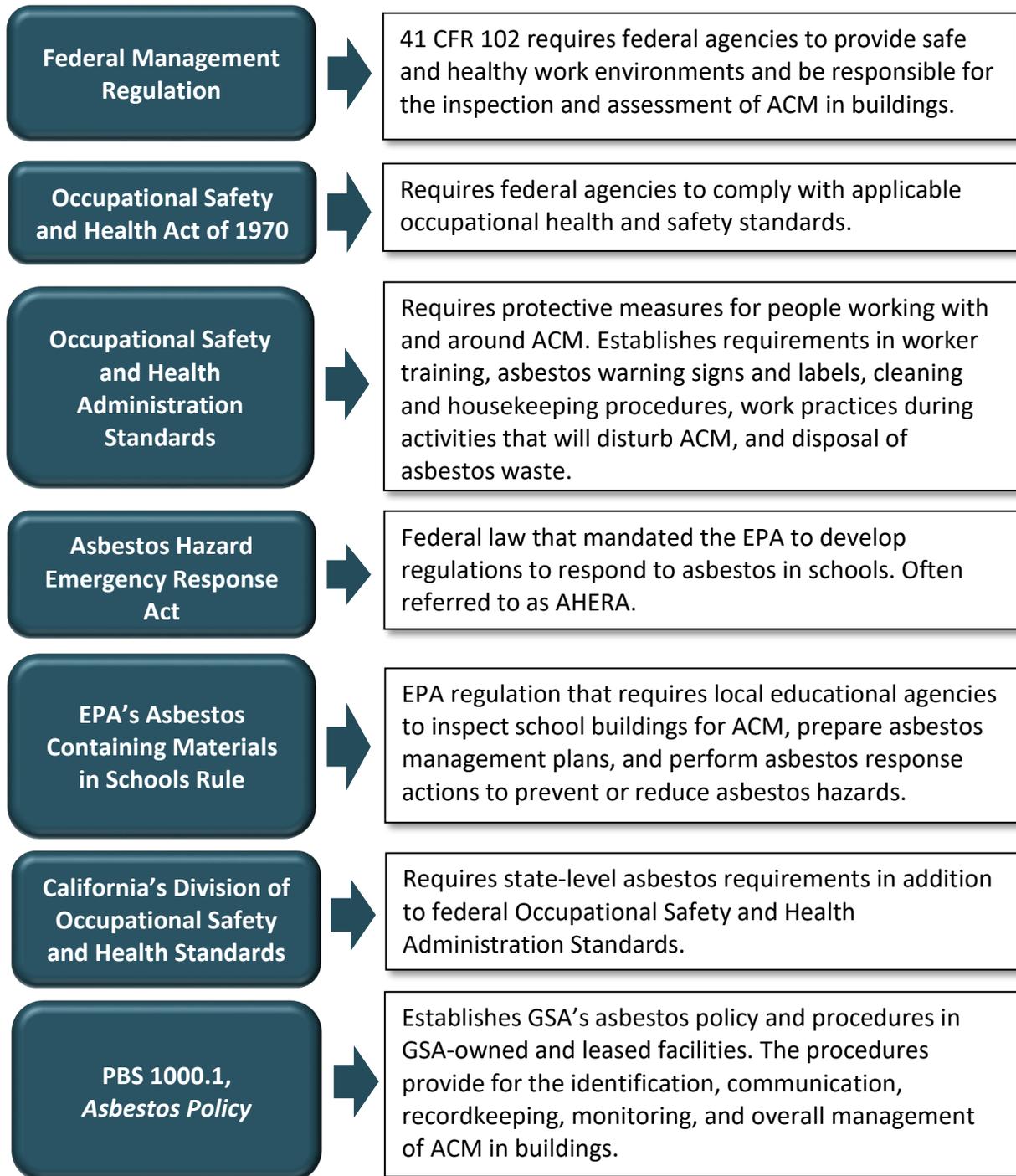
According to the Federal Management Regulation, PBS is responsible to its employees, tenant agencies, and outside contractors with regard to asbestos management. To minimize human exposure and environmental releases, PBS must ensure compliance with its policy, as well as federal and state requirements. These requirements are listed in *Figure 2* on the next page.

² *Chet Holifield Federal Building: GSA's Decision to Renovate and Retain Appears Appropriate* (Report Number GAO/GGD-87-47, April 1987).

³ The U.S. General Accounting Office is now the U.S. Government Accountability Office.

⁴ 29 CFR 1926.1101, *Asbestos. Appendix H.*

Figure 2 – Laws, Regulations, and Policies Related to ACM



The EPA and the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) each have regulatory responsibility to protect workers from the potential harm from exposure to asbestos. The EPA regulates asbestos in school buildings, public and commercial buildings, at clean-up sites, and in certain asbestos products. OSHA is responsible for

establishing standards to protect the health and safety of workers who may be exposed to asbestos in the workplace.

In addition, state agencies may also have applicable asbestos management standards. For example, the State of California, where the CHFB is located, investigates and enforces health and safety requirements through the California Division of Occupational Safety and Health. Additionally, the California Division of Occupational Safety and Health ensures the health and safety of California workers by setting and enforcing standards; providing outreach, education, and assistance; and issuing permits, licenses, certifications, registrations, and approvals.

PBS's Responsibilities for ACM Management

PBS's Office of Facilities Management, Facility Risk Management Division, is responsible for creating the Agency's asbestos policy and guidance. This division is also responsible for monitoring regional execution of the asbestos program. Within the PBS Pacific Rim Region, the Facilities Management Division's Compliance and Sustainability Branch is responsible for execution of the regional asbestos program. It is also responsible for reviewing PBS building conditions and creating regional procedures and guidance in support of the overall PBS policy and regulations.

CHFB PBS staff are responsible for monitoring all construction, maintenance, and custodial activities within the building to ensure work involving or potentially involving asbestos is performed in accordance with the asbestos management plan. They are also responsible for:

- Communicating asbestos-related information to tenant agencies;
- Notifying contractors working in the building about asbestos and managing a work permit or similar system for avoiding accidental asbestos disturbance; and
- Sharing facility asbestos information with any interested facility occupant or contractor.

Previous GSA Office of Inspector General Audit Reports

Our office has previously reported on serious concerns over PBS's management of environmental hazards, including asbestos. For example, in March 2015, we issued a report on PBS's environmental risk management practices, which identified deficiencies in PBS's policies and procedures.⁵ Among other things, we reported that PBS did not have formal policy in place governing the conduct and use of environmental compliance audits and that environmental management practices were inconsistently implemented across PBS regional offices due to a lack of policy. These deficiencies prevented PBS from effectively monitoring and overseeing environmental risks across its portfolio of buildings. In response to our report, PBS stated that it

⁵ *PBS's Identification and Management of Environmental Risks Need Improvement* (Report Number A130131/P/R/R15003, March 20, 2015).

would update its national policies to provide guidance on environmental risks. In March 2015, PBS issued PBS 1000.1, *Asbestos Policy*, to address the recommendations of our report.

In March 2019, we reported that PBS did not take appropriate action to protect tenants, contractors, and visitors from hazards at the Goodfellow Federal Complex in St. Louis, Missouri, because of poor environmental management programs, policies, and guidance.⁶ PBS's inadequate response to the environmental hazards noted in the report, including lead, asbestos, and other known cancer-causing agents, may have endangered the health of people at the complex and wasted taxpayer money. Furthermore, the deficiencies in PBS's approach to these studies and violations resulted from its lack of effective environmental programs and policies to ensure compliance with regulatory requirements at both the regional and national levels.

We subsequently conducted a review to determine if PBS implemented its corrective action plan to address the recommendations included in our Goodfellow Federal Complex audit. In July 2020, we reported that PBS did not fully and effectively implement its corrective action to institute a process for communicating the results of all environmental studies to ensure all affected parties receive the information.⁷ We found that PBS's communication process did not ensure that all occupants are notified of the results of all environmental studies upon completion.

In response to our July 2020 report, PBS submitted a revised corrective action plan. Among other things, the revised corrective action plan required PBS to issue national guidance addressing the process for notifying affected building occupants of hazards associated with the following program areas: Occupational Safety and Health, Facility Safety & Health, Environmental, and Fire Protection. PBS issued guidance designed to address this requirement in January 2021.⁸

Hotline Complaint

On October 3, 2018, we received a hotline complaint from the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), alleging health and safety concerns with PBS's asbestos management at the CHFB. One concern noted that the most recent asbestos survey does not reflect what PBS has recorded in its Inventory Reporting Information System (IRIS).

⁶ *Audit of Environmental Issues at the Goodfellow Federal Complex in St. Louis, Missouri* (Report Number A170027/P/6/R19002, March 15, 2019).

⁷ *Implementation Review of Corrective Action Plan Audit of Environmental Issues at the Goodfellow Federal Complex in St. Louis, Missouri* Report Number A170027/P/6/R19002 March 15, 2019 (Assignment Number A201001, July 24, 2020).

⁸ GSA Order PBS 2400.1, *Risk Management Notification* (January 8, 2021).

A USCIS contractor discovered ACM in the building during a November 2015 renovation project on the first floor when it encountered spray-on, fire-resistive material above the ceiling. According to USCIS staff, PBS failed to inform tenants of the presence of ACM in the building until 2016. The PBS deputy property manager, who was the CHFB building manager from 2011 to 2017, told us that asbestos was not a concern of the field office until the incident. The PBS deputy property manager also stated that the office has gone from not managing asbestos to overcompensating for the present issue and conditions.

PBS’s Responses Since the 2015 Renovation

As shown in *Figure 3*, PBS has taken a number of actions since the 2015 renovation to protect the health of the occupants of the CHFB.

Figure 3 – Chronology of PBS’s Responses

Date	Event
February 2016	PBS issued an asbestos notification to CHFB tenants, which identified ACM in the building; however, the notification incorrectly stated there was no friable asbestos in the building.
June 2016	The U.S. Department of Health and Human Services’ Federal Occupational Health agency began quarterly asbestos air sampling at PBS’s request.
September 2016	PBS awarded a contract to a certified industrial hygienist to support various ACM activities at the CHFB.
January 2017	The CHFB operations and maintenance (O&M) service contract was modified to include asbestos management for \$54,184 a month.
February 2017	PBS and USCIS signed a memorandum of agreement to prescribe agreed-upon requirements for the CHFB asbestos air-sampling methodology and laboratory analysis.
April 2017	PBS and USCIS signed an updated memorandum of agreement to include asbestos response actions and work practices to be employed to prevent asbestos contamination.
May 2017	PBS completed an environmental study at the building, which identified a significant amount of ACM.
August 2017	PBS issued an asbestos notification to correct the February 2016 notification.
November 2017	PBS completed an asbestos survey of the CHFB. The asbestos survey also identified a significant amount of ACM.

The Future of the CHFB

On January 24, 2020, the CHFB was accepted for disposal on the list of federal properties to be sold under the Federal Assets Sale and Transfer Act of 2016. GSA is currently proposing to move the existing tenants out of the CHFB, and relocate them to a newly constructed facility adjacent

to the existing building or lease space in the Orange County, California, market. In March 2021, GSA completed an environmental impact statement for the building to analyze the potential impacts of the proposed options for relocating tenants.

Results

PBS failed to comply with federal regulations and its own policy for asbestos management at the CHF. As a result, CHF tenants, visitors, contractors, and PBS staff are at increased risk of exposure to ACM.

Based on our audit, we found that PBS:

1. Does not maintain a reliable ACM inventory for the CHF or update the CHF asbestos management plan. As a result, PBS cannot ensure asbestos is managed properly;
2. Failed to notify building occupants of the presence and location of ACM in accordance with federal and state regulations and PBS policy; and
3. Is providing inadequate oversight of the CHF O&M service contractor.

We also found that the PBS *Asbestos Policy* contains ambiguous and conflicting information, which can result in inconsistent application of the policy by PBS staff and failure to comply with applicable laws and regulations.

Finding 1 – PBS does not maintain a reliable ACM inventory for the CHF or update the CHF asbestos management plan. As a result, PBS cannot ensure that asbestos is managed properly.

We found that PBS does not have a reliable CHF ACM inventory due to limitations placed on its baseline survey contractor and its inability to locate the source of asbestos detected in samples taken from above the ceilings of upper floors. In addition, PBS failed to update the CHF asbestos management plan and IRIS to reflect changes in the condition of ACM throughout the building. As a result, PBS cannot take comprehensive and effective action to manage asbestos at the CHF and protect tenants, contractors, and visitors from exposure.

PBS adopted provisions of the Asbestos Hazard Emergency Response Act (AHERA) into its *Asbestos Policy*. AHERA, which is considered the state-of-the-art regulation for ACM management, requires two key documents for managing ACM:

- The ACM inventory, which documents all known or assumed asbestos in a building; and
- The asbestos management plan, which documents the procedures for managing the ACM inventory in a building.

These documents are established following completion of an asbestos survey. An asbestos survey involves a review of building records and an inspection of the building for friable materials. According to EPA guidance, the inspection is the more important component of the

survey because building records are often incomplete and unreliable. However, EPA guidance adds that although building records are often unreliable, they are a useful starting point.

Baseline Survey Limitations

PBS uses asbestos surveys to determine the ACM inventory in a building. According to the PBS *Asbestos Policy*, there are three types of surveys performed in GSA facilities:

- **Baseline (or initial) survey** – This survey assesses every building component throughout the facility. A baseline survey is performed on facilities either with no prior asbestos information or information that is outdated or untrustworthy. A baseline survey is required for every GSA facility constructed prior to January 1, 1998.
- **Re-inspection (or resurvey)** – This is a follow-on survey conducted after the baseline survey. A re-inspection involves walking through the facility with the baseline survey or previous re-inspection information and making note of any changes to ACM.
- **Periodic surveillance** – This is an abbreviated resurvey, usually conducted annually or semiannually. It is a walk-through of the facility and relies on current survey information, focusing on noting any changes to the condition of ACM.

In 2016, PBS contracted with an environmental and industrial hygiene firm for a baseline asbestos survey at the CHFB. However, PBS imposed limitations on the contractor that resulted in an incomplete survey.

The initial scope of work for the survey required that the contractor provide a comprehensive survey and accurate inventory of all ACM in the CHFB. To accomplish this, the contractor was required to:

- Review the building's existing asbestos survey reports and floor plan drawings. This included the existing asbestos management plan and any surveys and/or reports pertaining to repair and alteration or construction that may have affected the status of the asbestos.
- Inspect all areas of the building. This included all mechanical areas, storage areas, attic areas, crawl spaces, chases that could be accessed without demolition, public areas, offices and other areas occupied by tenants in the building, and areas above all ceilings throughout the building that could be accessed without demolition and building exteriors. PBS also required the contractor to inspect building exterior locations where ACM might be found, including the roof and roofing components.
- Assess the condition of ACM.

In October 2016, PBS instructed the contractor not to rely on prior CHFB survey data. PBS officials told us that the previous CHFB survey, completed in 2005, was unreliable because it included many inaccurate assumptions about ACM in the building. However, no further support was provided regarding PBS's determination.

In November 2017, the environmental and industrial hygiene firm completed the new CHFB survey, which now serves as the basis for the building's ACM inventory. The final report noted that the contractor had not reviewed historical data as directed by PBS. It also identified a number of other limiting conditions, including:

- Due to concerns about the asbestos-containing dust above the ceiling and accessibility issues, access to the ceiling plenums was limited.⁹
- The scope of work was modified to exclude destructive penetration of sealed spaces and building cavities such as walls and under carpets.
- Numerous flooring systems (for example, vinyl floor tile, carpet, and sheet flooring) have multiple mastic colors, including gray/blue, black/yellow, tan/yellow, white/green, etc. Without destructive sampling and pulling large amounts of carpet back to assess the mastics, it is difficult to confirm the extent of "residual mastics."¹⁰

As a result of these limitations, the contractor was unable to identify and assess all friable ACM as required by AHERA. This is especially concerning since the contractor could not fully assess the first floor fireproofing that was identified as damaged in previous inspection reports. The 2005 inspection report noted, "The asbestos-containing off-white fireproofing has been damaged over the years and debris is located on the top of the 1st Floor ceiling in the catwalk area." This was confirmed by numerous inspection reports between 2003 and 2017, which also identified the same damaged fireproofing.

When we interviewed a PBS-contracted certified industrial hygienist at the CHFB, they also noted concerns with the 2017 baseline survey, telling us that many things were missing from the report. According to the certified industrial hygienist, as they became more familiar with the building they noticed a lot of the sampling was missed, including asbestos-containing insulation around piping. The certified industrial hygienist concluded, "If you were to hand the contractor the report and say this is where [all] of our asbestos is, that's not 100 percent accurate."

⁹ A plenum is the space above a suspended ceiling. At the CHFB, non-ducted air flows through ceiling plenums providing return air for heating, ventilation, and air conditioning systems.

¹⁰ Mastic is a paste-like construction adhesive and sealant commonly used to bond ceiling, wall and floor tiles, plywood panels, and concrete.

PBS must have a reliable and complete baseline ACM survey to effectively manage the ACM in the facility. In addition to providing a complete picture of the asbestos in the building, the baseline survey is also integral to the completion of re-inspections and periodic surveillance performed in accordance with the *PBS Asbestos Policy*.

Inability to Locate the Source of Mystery Asbestos

Concurrent with the baseline survey, PBS contracted with an architect and engineering (A/E) firm in 2016 to perform an environmental study at the CHFB to provide a plan for asbestos abatement. A secondary focus of the study was to investigate the source(s) of traces of asbestos detected in samples taken from above the ceilings of upper floors. The A/E firm concluded in its report that this ACM was a “mystery.”

The A/E firm stated that it could not determine the source of the ACM on the upper floors because there is no known asbestos-containing spray-on, fire-resistive material located above the first floor, and there is no physical connection of the heating, ventilation, and air conditioning systems between the first floor and the upper floors. As a result, the A/E firm concluded that it is not likely that ACM dust on the first floor could travel to the upper floors through the heating, ventilation, and air conditioning system. The study goes on to state:

Determining the source of contamination at the upper floors would give GSA valuable information that could lead to implementation of safeguards that would insure [sic] the apparent spread of contamination to the upper floors will not continue, or reoccur.

While air sampling conducted by the U.S. Department of Health and Human Services’ Federal Occupational Health agency has revealed no significant health hazards, PBS cannot provide assurance that the proper safeguards are in place without determining the source of ACM contamination.

PBS Did Not Update the CHFB Asbestos Management Plan and IRIS to Reflect Changes in the Condition of ACM throughout the CHFB

In order to properly manage ACM, it is critical that asbestos management plans and inventory systems are updated as changes are identified. However, as described below, PBS failed to make necessary adjustments to the CHFB asbestos management plan and its inventory system, IRIS, to reflect changes to the condition of ACM throughout the building.

PBS did not update the CHFB asbestos management plan. PBS did not update the asbestos management plan for the CHFB in accordance with the *PBS Asbestos Policy*. The policy requires the asbestos program manager to update the plan to reflect changes identified through re-inspection or periodic surveillance surveys. However, we evaluated three revisions of PBS’s CHFB asbestos management plan and found that they had not been updated to include re-inspection and periodic surveillance information. Without current and complete information in

the asbestos management plan, PBS and its O&M service contractor are unable to make informed decisions to minimize the risk of ACM disturbance and exposure.

PBS did not update IRIS. PBS failed to update IRIS to reflect ACM changes at the CHFB. IRIS is a PBS system used to: (1) manage estimated repair and alteration costs for building projects and new construction, (2) capture and feed critical project data to GSA financial systems, and (3) track the status of safety and risk deficiencies identified during survey inspections. As established in the PBS *Asbestos Policy*, “The PBS IRIS asbestos module is the repository for all asbestos inventory information. Changes in the inventory must be noted in IRIS as soon as they are captured.” Additionally, “Survey information must be gathered in a compatible format with and uploaded to the PBS IRIS system.”

We reviewed IRIS and found that PBS uploaded information from the 2017 survey. However, no updates were made since that time to reflect changes in the ACM inventory. We reviewed 17 periodic surveillance reports from 2015 to 2020 and found that PBS did not update IRIS with changes to the condition of ACM. For example, the condition of the asbestos on the walls throughout the USCIS California Service Center warehouse, located in the CHFB, is listed in IRIS as “good” with a survey date of 2017. However, a 2019 periodic surveillance report lists the condition as “damaged.” The CHFB asbestos program manager told us that they were unaware of the requirement to update IRIS. Without accurate information, IRIS’s ability to support project cost estimation, calculate environmental liability, and track the status of safety and risk deficiencies is limited.

In sum, PBS does not have a reliable baseline survey for the CHFB and is not documenting and updating ACM changes at the building. As a result, PBS does not have a complete and reliable ACM inventory necessary to effectively manage the risk of exposure to tenant agency personnel, contractors, and visitors. Accordingly, PBS should take action to develop a comprehensive baseline survey and ensure that all changes to ACM in the building are updated and documented in the asbestos management plan and IRIS.

Finding 2 – PBS failed to notify building occupants of the presence and location of ACM in accordance with federal and state regulations and PBS policy.

PBS failed to send required notifications of the presence of ACM to CHFB occupants in accordance with federal and California regulations. Timely communication between PBS and CHFB tenants is essential to prevent activities that might disturb or release asbestos and potentially harm building occupants. As a result, CHFB building occupants were unable to make informed decisions about how to prevent disturbance and protect themselves from possible ACM exposure.

OSHA regulations require building and facility owners to inform employers and employees about the presence, location, and quantity of ACM. Under these requirements, the employer must, within 15 working days after the receipt of ACM monitoring results, notify each affected

employee of the results.¹¹ Similarly, California Health and Safety Code requires the building owner to notify occupants within 15 days of the first receipt of information identifying the presence or location of ACM in the building, and annually thereafter.¹²

PBS *Asbestos Policy* states that the Office of Facilities Management is responsible for: (1) providing building asbestos information to occupants and (2) notifying contractors of asbestos presence in federal facilities. However, we found that PBS did not provide required ACM notifications to CHFB occupants until February 2016—11 years after the 2005 survey identified friable asbestos-containing spray-on, fire-resistive material on the first floor. Furthermore, PBS's first notification in February 2016 erroneously stated that there was no friable asbestos in the CHFB. This notification was subsequently corrected in August 2017.

The PBS deputy property manager, who was the CHFB building manager from 2011 to 2017, did not state why PBS had not been notifying tenants, but conceded that PBS did not manage asbestos prior to the 2015 USCIS renovation project. Since 2016, PBS has provided building occupants with annual asbestos notifications as required by California Health and Safety Code.

To minimize the risk of future ACM disturbance and CHFB occupant exposure, PBS should ensure that required ACM notifications are provided to CHFB tenants and contractors in a timely manner.

Finding 3 – PBS is providing inadequate oversight of the CHFB O&M service contractor.

In order to ensure asbestos work is performed properly, PBS must enforce Federal Acquisition Regulation (FAR) and contract requirements for quality assurance. However, we found that PBS had no method to measure contractor performance for CHFB asbestos work, and did not enforce O&M service contract requirements.

FAR 37.601, *Performance-Based Acquisition*, prescribes that O&M service contracts include measurable performance standards that describe, among other things, the quality, timeliness, and quantity of the contractor's work. The contracts must also include the contractor's method of assessing its performance against the performance standards. In accordance with the FAR, PBS should use a quality assurance surveillance plan (QASP) to monitor the contractor's performance. The QASP should detail how the government will oversee and assess the contractor's performance. As required by FAR 37.604, *Quality assurance surveillance plans*, the government may either prepare the QASP or require the offerors to submit a proposed QASP for the government's consideration in development of the government's plan.

¹¹ 29 CFR 1910.1001(d)(7)(i), *Asbestos*.

¹² Division 20, Miscellaneous Health and Safety Provisions [24000-26250], Chapter 10.4, *Asbestos Notification* [25915-25919.7].

We found that PBS did not have a QASP in place for the O&M services contract at the CHFB. Instead, PBS staff relied on a quality control plan that was created by the CHFB O&M service contractor to monitor performance. We reviewed this plan and found that it did not detail how the government will oversee and assess the contractor's performance or include a method for inspecting work involving asbestos. Without a detailed QASP, PBS cannot effectively assess the O&M service contractor's performance, including asbestos work.

PBS's O&M contract for the CHFB also contains several requirements that are critical to effectively managing ACM at the CHFB. However, we found that PBS's oversight of two of these requirements—preparing a building operating plan and providing OSHA-required training—was also inadequate.

- **Building Operating Plan** – PBS failed to ensure that the contractor's building operating plan was updated in accordance with contract terms. The contract requires the contractor to include a hazardous materials inventory as an appendix to the building operating plan and update the plan during the performance periods of the contract to ensure that it reflects current equipment, systems, and operating procedures.

In 2018, a PBS Pacific Rim Region internal review found that the CHFB building operating plan "lacked any information regarding the asbestos containment procedures," and recommended that the building operating plan be updated accordingly. As of May 6, 2021, PBS had not updated the CHFB building operating plan to account for asbestos. When we asked why this document did not reference asbestos, PBS staff erroneously told us that it is not a requirement.

- **OSHA-Required Training** – PBS cannot ensure that the O&M service contractor has received required training. OSHA regulations require that all removal, repair, and maintenance activities involving asbestos be conducted within regulated areas by a competent person who has received specialized training.¹³ This training requirement includes asbestos awareness and hands-on training in the use of respiratory protections, other personal protection methods, and good work practices.

The O&M service contractor is required to maintain training documentation for its employees. However, because PBS did not have a QASP in place, it failed to ensure that contractor personnel received the required training.

Taken together, the deficiencies above demonstrate that PBS failed to provide effective oversight of the O&M service contract for the CHFB. As a result, PBS cannot ensure that the O&M service contractor is complying with FAR and contract requirements, including requirements critical to asbestos management at the building. Accordingly, PBS should improve its oversight of the O&M service contractor by implementing a QASP to monitor the contractor's performance. PBS should also improve oversight by: (1) requiring the contractor to

¹³ 29 CFR 1926.1101(b), *Asbestos*.

update its building operating plan and (2) verifying that contractor personnel have completed the OSHA-required training.

Finding 4 – The PBS *Asbestos Policy* contains ambiguous and conflicting information.

The PBS *Asbestos Policy* contains ambiguous language that in some cases conflicts with federal regulations. Without a clear national policy, PBS cannot ensure that staff consistently and properly manage ACM at the CHFB and in other federally owned or leased properties in PBS’s national portfolio.

As described below, we found ambiguous and conflicting language in the PBS *Asbestos Policy* governing pre-alteration assessments, asbestos inspections, and ACM inventory.

Pre-alteration Assessments

According to the PBS *Asbestos Policy*, the pre-alteration assessment is used by the project designer to either avoid disturbing asbestos in the project area or to design controls to safely deal with the disturbance of the ACM. Pursuant to Federal Management Regulation, 41 CFR 102-80.15(c), “Federal agencies must perform a pre-alteration asbestos assessment for activities that may disturb asbestos.”

This asbestos assessment requirement is reiterated four times in the PBS *Asbestos Policy*. However, *Appendix A, Asbestos Pre-Alteration Assessments*, of the PBS *Asbestos Policy* adds the following contradictory statement:

Project managers *can choose* to consider suspect or assumed (“presumed”) materials to contain asbestos. In doing so, no further assessment is needed but the suspect material will of course need to be treated as though it tested positive for asbestos, throughout the project. [emphasis added]

This statement provides that PBS has the option to conduct a pre-alteration assessment. However, these assessments are not optional under 41 CFR 102-80.15(c). This statement also contradicts requirements set forth elsewhere in the PBS *Asbestos Policy*, which provides that:

A pre-alteration assessment must be performed by a qualified person, prior to design and constructions of *all* PBS space projects in facilities containing asbestos or presumed to contain asbestos. [emphasis added]

As confirmed during audit interviews, the conflicting guidance has led to inconsistent interpretations of the requirement for pre-alteration assessments at the CHFB. PBS staff told us that assessments would not be conducted for areas presumed to contain ACM or areas that would not disturb ACM.

By failing to conduct these assessments, PBS can expose GSA to unnecessary risk. The pre-alteration assessments are critical to protect PBS and building occupants from accidental asbestos disturbance, real or perceived asbestos exposure, and contamination of GSA property. The proper use of these assessments can also protect PBS from costly project delays and fines levied by federal, state, and local environmental and safety authorities.

Inspections

According to EPA guidance, the inspection of asbestos provides information on its condition and physical characteristics.¹⁴ A visual re-inspection of all ACM should be conducted at regular intervals (as part of the asbestos management plan) to help ensure that any ACM damage or deterioration will be detected and promptly addressed.

Additionally, AHERA requires an accredited inspector to re-inspect buildings at least once every 3 years and perform periodic surveillance every 6 months to reassess the condition of the ACM.

In contrast, the PBS *Asbestos Policy* uses ambiguous time frames that can lead to excessive gaps between inspections. *Figure 4* contrasts the ambiguous PBS *Asbestos Policy* timeframes for performing re-inspections and periodic surveillance of ACM with AHERA’s specific time frames.

Figure 4 – PBS Asbestos Policy vs. AHERA Time Frames

Inspection Type	PBS Asbestos Policy	AHERA
Re-Inspection	At Least Annually or Every 5 Years	Every 3 Years
Periodic Surveillance	Usually Conducted Annually or Semiannually	Every 6 Months

Without specific time frames for inspections such as those required by AHERA, PBS cannot ensure that inspections to monitor ACM are consistently taking place and that damage or deterioration of the ACM can be addressed promptly.

ACM Inventory

An ACM inventory incorporates information from the baseline survey, re-inspections, and periodic surveillance. Under AHERA, changes to the inventory as a result of visual inspections are to be specifically included in the asbestos management plan. However, the PBS *Asbestos Policy* is ambiguous regarding where inventory changes should be recorded.

Appendix C, Asbestos Management and O&M Plans, of the PBS *Asbestos Policy* properly incorporates the AHERA requirement. However, *Appendix E, Asbestos Periodic Surveillance*, states, “the inspector inserts any inventory changes into the asbestos O&M plan listing, asbestos inventory or management plan.” This gives PBS the option to record inventory

¹⁴ *Managing Asbestos in Place: A Building Owner’s Guide to Operations and Maintenance Programs for Asbestos-Containing Materials*, U.S. Environmental Protection Agency (July 1990).

changes in three different documents. This ambiguity may result in information not being fully communicated to occupants and contractors working in the building. Failure to provide definite national policy requirements could result in inaccurate or incomplete ACM inventories.

As shown above, the PBS *Asbestos Policy* provides conflicting and ambiguous information, which can result in inconsistent application of the policy by PBS staff and failure to comply with applicable laws and regulations. PBS's national industrial hygienist agreed that improvements are needed to the policy. PBS officials told us that updating and reissuing the policy is among PBS's Fiscal Year 2022 plans and will be expedited given the concerns about unclear language.

Conclusion

PBS failed to comply with federal regulations and its own policy for asbestos management at the CHFB. As a result, CHFB tenants, visitors, contractors, and PBS staff are at increased risk of exposure to ACM.

Based on our audit, we found that PBS:

1. Does not maintain a reliable ACM inventory for the CHFB or update the CHFB asbestos management plan. As a result, PBS cannot ensure that asbestos is managed properly;
2. Failed to notify building occupants of the presence and location of ACM in accordance with federal and state regulations and PBS policy; and
3. Is providing inadequate oversight of the CHFB O&M service contractor.

We also found that the PBS *Asbestos Policy* contains ambiguous and conflicting information, which can result in inconsistent application of the policy by PBS staff and failure to comply with applicable laws and regulations.

To address these deficiencies, PBS needs to implement internal controls to ensure that ACM is managed in accordance with federal and state regulations and PBS policy. Additionally, PBS needs to update its internal *Asbestos Policy* to provide clear guidance for compliance with the regulations cited in the policy.

Recommendations

We recommend that:

1. The PBS Regional Commissioner of the Pacific Rim Region develop and implement internal controls to ensure adherence to federal and state regulations and PBS policy for asbestos management. These controls should ensure that PBS:
 - a. Develops and maintains an accurate, current, and complete CHFB ACM inventory.
 - b. Updates the CHFB asbestos management plan when changes are made.
 - c. Notifies all CHFB tenants of the ACM inventory annually.
 - d. Provides adequate O&M service contractor oversight by:
 - i. Requiring contractors to update building operating plans to reflect changes in contract terms and conditions; and
 - ii. Ensuring that PBS acquisition personnel comply with Federal Acquisition Regulation 46.4, *Government Contract Quality Assurance*, requirements for quality assurance surveillance plans.

2. The PBS Commissioner update the PBS *Asbestos Policy* to ensure that it provides clear and consistent guidance. At a minimum, the PBS Commissioner should address the ambiguous and inconsistent guidance governing pre-alteration assessments, asbestos inspections, and ACM inventory as identified in our report.

GSA Comments

The PBS Commissioner and PBS Regional Commissioner of the Pacific Rim Region agreed with our recommendations.

In its response, PBS also noted that the *Background* section of the draft report was not reflective of PBS's revised corrective action plan submitted in response to our audit of the Goodfellow Federal Complex. We made certain revisions in the *Background* section to address PBS's comments. These changes did not affect the findings and conclusions reached in our audit report.

PBS's written comments are included in their entirety in **Appendix B**.

Audit Team

This audit was managed out of the Southeast Sunbelt Region Audit Office and conducted by the individuals listed below:

Nicholas Painter	Regional Inspector General for Auditing
Melanie Mochizuki	Audit Manager
Lucas Mann	Auditor-In-Charge

Appendix A – Objective, Scope, and Methodology

Objective

We initiated this audit after confirming the merits of a hotline complaint that identified concerns with PBS’s management of asbestos at the CHFB. These concerns included mismanagement of asbestos and misrepresentation of the amount of asbestos in the CHFB. Our objective was to determine whether PBS adheres to applicable asbestos management laws, regulations, and policies at the CHFB to ensure the health and safety of individuals in the building.

Scope and Methodology

To accomplish our objective, we:

- Reviewed and analyzed asbestos management laws and regulations, including those specific to California;
- Researched and reviewed safety regulations and standards specific to asbestos, including OSHA’s *General Industry Standards* and *Construction Industry Standards*;
- Requested and reviewed CHFB O&M service contract documents, including a contract modification and the quality control program;
- Requested and reviewed asbestos documents for the CHFB from PBS, including the 1994, 2005, and 2017 surveys; periodic surveillance reports; ACM notification reports; and the asbestos management plan;
- Requested and reviewed CHFB contract documents related to the 2017 survey and an environmental study;
- Reviewed previous GSA Office of Inspector General audit reports referencing PBS’s management of asbestos;
- Examined PBS guidance, the PBS *Asbestos Policy*, a Management Analysis Review System report, and reviewed asbestos information related to the CHFB in IRIS;
- Conducted site visits to the CHFB in March 2019 and January 2020; and
- Conducted interviews with PBS officials, tenant agency officials, contractors, and officials from the National Institute for Occupational Safety and Health and the EPA.

Internal Controls

Our assessment of internal controls was limited to those necessary to address the objective of the audit.

Compliance Statement

We conducted the audit between January 2019 and November 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B – GSA Comments



Public Buildings Service

December 3, 2021

MEMORANDUM FOR NICOLAS V. PAINTER
REGIONAL INSPECTOR GENERAL FOR AUDITING
SOUTHEAST SUNBELT REGION AUDIT OFFICE (JA-4)

THROUGH: NINA M. ALBERT
COMMISSIONER 
PUBLIC BUILDINGS SERVICE (P)

FROM: DAN R. BROWN 
REGIONAL COMMISSIONER
PUBLIC BUILDINGS SERVICE (9P)

SUBJECT: Response to the Office of Inspector General Draft Report, *Audit of PBS's Management of Asbestos at the Chet Holifield Federal Building in Laguna Niguel, California* (Report Number A190043)

Thank you for the opportunity to comment on the subject audit report. We reviewed the report and agreed with the Office of Inspector General's (OIG) recommendations. The Public Buildings Service (PBS) has improved procedures in recent years and remains committed to the health and safety of our building occupants. As such, PBS will continue to ensure asbestos management meets local, state, federal, and GSA policy by updating the existing policy, providing annual asbestos notifications to building tenants, ensuring quality control and asbestos training of staff and contractors, and updating operation and maintenance procedures when the asbestos policy is updated.

Regarding the referenced implementation review of the corrective action for the Goodfellow Federal Complex Audit in the section on "Previous GSA Office of Inspector General Audit Reports," PBS would like to note that the following sentences on page 5 of the draft report do not reflect the approved revised corrective action plan:

In July 2020, we reported that PBS did not fully and effectively implement its corrective action to institute a process for communicating the results of all environmental studies to ensure all affected parties receive the information. [Footnote omitted.] We found that PBS's communication process did not ensure that all occupants are notified of the results of all environmental studies upon completion.

While the OIG recommended that PBS institute controls to ensure that all health, safety, and environmental studies are distributed upon completion to the occupants of any Heartland Region property where studies are performed, the revised corrective action plan, which was approved by the OIG, confirmed that the action that the PBS Office of Facilities Management would take to address that recommendation would be to issue national guidance addressing notification and associated timeframes to affected building occupants in the following program areas: Occupational Safety and Health, Facility Safety & Health, Environmental, and Fire Protection. This guidance was issued on January 8, 2021.

If you have any questions, please contact Dan Brown, Regional Commissioner, Pacific Rim Region, at (253) 709-5086.

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Appendix C – Report Distribution

GSA Administrator (A)

GSA Deputy Administrator (AD)

Commissioner (P)

Deputy Commissioner (PD)

Chief of Staff (PB)

Deputy Chief of Staff (PB)

Assistant Commissioner for Strategy and Engagement (PS)

Regional Commissioner (9P)

Chief Financial Officer (B)

Office of Audit Management and Accountability (BA)

Assistant Inspector General for Auditing (JA)

Director, Audit Planning, Policy, and Operations Staff (JAO)