Statement of

The Honorable Carol Fortine Ochoa

Inspector General

U.S. General Services Administration

before the

U.S. House of Representatives

Committee on Oversight and Government Reform

Subcommittee on Government Operations

concerning

"General Services Administration: Checking in with the Government's Acquisition and Property Manager"

February 15, 2018

Chairman Meadows, Ranking Member Connolly and Members of the Subcommittee:

Thank you for the opportunity to testify here today regarding the Office of Inspector General's (OIG) work related to the General Services Administration's (GSA) acquisition and real property programs.

Overview

The OIG has continued to deliver exceptional value to the taxpayer by identifying waste, fraud, abuse, and mismanagement, and by making recommendations to improve the performance, accountability, and integrity of GSA programs and operations.

Our work routinely results in large financial recoveries for the taxpayer. For example, the OIG's criminal, civil, and administrative recoveries totaled $121 million in Fiscal Year (FY) 2017, $72 million in FY 2016, and $243 million in FY 2015. In addition, in FY 2017 alone, the OIG identified more than $287 million in questioned costs and funds that could be put to better use by GSA. Our investigative work over the same time period resulted in 62 criminal indictments, 35 convictions, and 26 administrative actions. All of these results were produced on an annual office appropriation of $65 million.

Our investigations help preserve the integrity of the procurement process by holding accountable those who attempt to exploit the process for illegal gain. For example, in FY 2017 we obtained a $16 million settlement of allegations under the False Claims Act that a military tactical equipment supplier engaged in illegal bid-rigging schemes and fraudulently obtained small business contracts by having businesses it controlled misrepresent themselves. Additionally, we used data analytics to uncover a scheme in which a contractor obtained federal contracts in violation of federal exclusion rules, resulting in a five-year prison sentence for the violator. Another investigation revealed that a GSA contractor fraudulently obtained set-aside contracts by misrepresenting himself and his company as a Service Disabled Veteran Owned Small Business, resulting in a 30-month prison sentence and a $6.7 million forfeiture order.

These monetary recoveries and investigative work are in addition to significant reviews of GSA's Technology Transformation Services (TTS) and its Office of 18F, core components in GSA's efforts to transform the way government builds and buys information technology. In October 2016, we reported significant weaknesses in the financial management of 18F that resulted in a loss of over $31 million over a roughly two-year period. In February 2017, we found that management failures caused 18F to routinely disregard fundamental GSA security requirements related to the acquisition of information technology and the operation of information systems. The corrective actions implemented as a result of our recommendations, if accompanied by continued management vigilance and stringent financial controls, should result in more effective operations in the future.

Top Challenges Facing the GSA

Each year we provide GSA with a summary of what we consider to be the most serious management and performance challenges facing the agency. For FY 2018, we identified significant challenges in six major areas: (1) Enhancing Government Procurement; (2) Maximizing the Performance of GSA's Real Property Inventory; (3) Sustaining Technology Transformation Services within the Federal Acquisition Service (FAS), (4) Making Agency Cybersecurity a Priority; (5) Efficiently Managing Human Capital; and (6) Safeguarding Federal Facilities and Providing a Secure Work Environment. Our statement to the agency identifying these challenges is posted to our public website and included in the agency's financial report. Each of these challenges is briefly highlighted below.

Enhancing Government Procurement

In FY 2014, the Office of Management and Budget, Office of Federal Procurement Policy, introduced category management to strengthen federal acquisition practices, leverage federal agencies' buying power, eliminate duplicative contracts, and collectively manage commonly purchased goods and services. Category management is designed to allow the federal government to act as one buying entity.

In support of this initiative, FAS created the Acquisition Gateway as a portal for the government contracting community to share acquisition related information in an effort to improve the speed and quality of federal purchases. As of February 2018, the Acquisition Gateway has over 15,000 users and 51 hallways; and contains thousands of sample acquisition documents, articles, lessons learned, and templates. In FYs 2016 and 2017, FAS spent $10.8 million and $14.3 million, respectively on the Acquisition Gateway with additional funding planned for FY 2018.

As the Acquisition Gateway matures and additional government funds are expended to support it, FAS is challenged with how to measure the success and effectiveness of the portal. Thus far, FAS has measured success by the quantity of registered users and federal agency participation. However, the success of the Acquisition Gateway should not be judged solely by the quantity of users and content, but by whether it is actually helping federal agencies acquire goods and services at fair and reasonable prices.

Our audit work has consistently pointed to concerns with the variability and reasonableness of schedule prices. For example, in our July 2016 audit of IT reseller contracts, we reported that GSA offered many identical items on its IT schedule at widely varying prices and that lower commercial prices were available for many of these items. Furthermore, in March 2017, we reported that GSA's contract consolidation process for the Professional Services Schedule resulted in the award of new contracts without establishing price reasonableness as required. As a result, GSA and customer agencies did not have assurance that the prices on these new contracts – which accounted for over $2 billion in annual schedule sales – were fair and reasonable. While GSA has attempted to address these concerns through several pricing initiatives, such as the Transactional Data Reporting Rule, the Formatted Product Tool, and the Contract Awarded Labor Category Tool, challenges remain.

GSA is currently implementing the Transactional Data Reporting rule, which was formalized in the Federal Register in June 2016 as a pilot program. Under this pilot, contractors can voluntarily opt to electronically report the prices GSA customers pay for contract products and services. Federal procurement personnel can then use the information for category management and contract pricing. However, to date the data has not been made available for either of these purposes. Further, using this data to make comparisons and reduce price variability will be difficult because GSA's Schedules Program includes non-standard products and services that could impede comparability. In addition, contracting officers will compare a contractor's offered price to a limited subset of prices paid by federal customers on actual GSA schedule sales, which ignores any comparable commercial activity.

GSA launched its TDR pilot in August 2016; however, it did not finalize its evaluation plan until March 2017. Our ongoing audit of the pilot seeks to determine if GSA's plan will enable it to objectively measure and evaluate whether the TDR pilot is improving the value of the Schedules Program for GSA's customer agencies and the American taxpayer.

In 2015, FAS launched the Competitive Pricing Initiative, built around the Formatted Product Tool, in an effort to address concerns over price variability in the Schedules Program. This initiative, which focuses on products sold through the Schedules Program, centers around an analysis of a contractor's current contract (or proposed) pricing compared to prices offered by other contractors for an identical product in the government marketplace. One major challenge to meeting this goal is that although the Formatted Product Tool may identify a contractor's pricing as falling outside the acceptable range for a product, no contractual obligation requires the contractor to lower its prices or remove the product from its schedule contract. Another concern is that the Formatted Product Tool's price comparisons may not be accurate. Users have also experienced significant system issues with the Formatted Product Tool, such as difficulty uploading pricing data and generating pricing documents and analysis. Because of these issues, GSA has suspended the tool's full deployment.

The Contract Awarded Labor Category Tool (CALC) is designed to assist contracting officers in evaluating pricing for services. This tool allows contracting officers to search contract prices by labor category and filter by education level, experience, and worksite. However, because contractors often use unique pricing on task orders, the tool does not provide the actual government prices paid by labor category or the discounts granted to customer agencies. Furthermore, the tool does not consider factors such as geographic location or basic labor category qualification requirements, which are essential to ensuring that the comparison is valid.

While none of these initiatives or tools completely eliminate price variability, they all ignore the commercial marketplace and emphasize the acceptance of pricing within an acceptable range based solely on the GSA schedule marketplace, increasing the likelihood that the government will overpay for the same products and services purchased commercially.

Maximizing the Performance of GSA's Real Property Inventory

The Public Building Service (PBS) is challenged to maximize the performance of its real property inventory in order to provide space that meets the needs of tenant agencies at a reasonable cost to the American taxpayer. To achieve this goal, GSA should plan the best approach to reducing and consolidating space, disposing and exchanging federal property, and reducing leasing costs.

Since FY 2014, Congress has provided GSA with the authority to use funds for space consolidation projects. Most recently in FY 2017, Congress authorized the use of $48 million from the Federal Buildings Fund to reconfigure and renovate space within GSA-owned and leased buildings. Congress called for preference to be given to consolidation projects that achieve a utilization rate of 130 usable square feet or less per person. GSA plans to use the funds to improve space utilization, decrease its reliance on leases, and reduce the federal footprint.

However, GSA is challenged with ensuring that it selects projects that will achieve measurable benefits, rather than simply reducing the federal building portfolio. In a time of limited funding, GSA must select consolidation projects that will allow it to best maintain its buildings, meet its customers' needs, and lower the total cost incurred by government. For example, while GSA's tenants benefit from a reduced footprint's lower lease costs, GSA risks significant losses to the Federal Buildings Fund if it cannot backfill vacated space that remains under lease. To that end, we are currently conducting an audit of PBS's procedures for administration of vacant space in leased buildings to determine whether PBS is accurately reporting the amount of vacant leased space and whether its controls for managing vacant leased space are effective in preventing undue costs to the government.

GSA also faces significant challenges in its management of property disposals and exchanges. GSA must plan for and navigate through a complex process when disposing of its own properties and the properties of other federal agencies. The amount of time that a disposal takes is problematic because while a property is vacant or underutilized throughout the disposal process, the federal government is responsible for ongoing maintenance, operations, and security costs. For example, at the vacant West Heating Plant in Washington, D.C., the government was responsible for $3.5 million in maintenance costs over 10 years before the building was sold at public auction in March 2013.

Due to tight budgets, GSA has recently pursued real property exchanges. These exchanges allow GSA to transfer underutilized properties from its inventory and use the value of the transferred property to obtain another property or finance construction needs on other projects. These projects are complicated to execute and require significant upfront planning. Because title of the property is not transferred until after construction has been completed, the exchange partner incurs significant upfront costs before realizing a return on investment. This lag time has caused potential developers to mitigate their risk by reducing their valuation of the offered property, often well below GSA's expected value.

As reported in our March 2017 *Audit of PBS's Planning and Funding for Exchange Projects,* PBS's planning and reporting for exchange projects has not been comprehensive. Specifically, we found that PBS did not fully factor risk into its planning for exchange projects. As a result, it cancelled or chose not to pursue several exchanges. We also found that PBS did not fully identify, plan for, and report the funding for all aspects of exchange projects, and that PBS's exchange guidance is outdated and incomplete.

Finally, GSA is challenged to maximize competition in leasing and control lease costs by reducing its reliance on holdovers and extensions. Short-term holdovers and extensions may provide flexibility, but it comes at a cost, as long-term leases provide incentives for owners to provide lower rental rates and concessions such as periods of free rent. As leases expire, upfront planning is important to allow for competitive procurements to achieve better rates for the tenant and taxpayer.

Sustaining Technology Transformation Services within FAS

GSA has experienced a significant challenge in operating its Technology Transformation Services (TTS) and its Office of 18F. GSA established TTS to "transform the way government builds, buys and shares technology" and the Office of 18F brought private-sector technology experts into federal service to "simplify the government's digital services, making them more efficient and effective." In August 2016, the U.S. Government Accountability Office found that 18F did not fully establish outcome-oriented goals, measure performance, and prioritize projects.

The OIG has conducted several reviews of 18F and TTS. As noted above, in October 2016, we reported significant weaknesses in the financial management of 18F that resulted in a loss of over $31 million over a roughly two-year period. In February 2017, we found that management failures caused 18F to routinely disregard fundamental GSA security requirements related to the acquisition of information technology and the operation of information systems.

During the course of our evaluations, the OIG initiated a reprisal investigation after receiving whistleblower disclosures made by a career executive, the former FAS Commissioner, regarding wrongdoing in TTS. The U.S. Office of Special Counsel (OSC) also received a complaint and referred the allegations to GSA's Acting Administrator for investigation. The Acting Administrator concluded, based in part on the findings of our evaluations, that TTS had engaged in gross mismanagement and violated the Economy Act. In June 2017, the Acting Administrator announced a major reorganization that transferred TTS and its component offices under FAS in order to "address the funding and management control issues" that had been identified within TTS.

Concurrently, we released the results of our investigation into the former FAS Commissioner's complaint of whistleblower retaliation, and referred the report to the OSC. We found that the Commissioner had made protected disclosures regarding the 18F program and TTS and that he was subjected to reprisal for engaging in that activity. Specifically, we found that the former GSA Administrator threatened the FAS Commissioner with transfer or other adverse personnel action, and significantly changed his responsibilities with regard to oversight and control of the Acquisition Services Fund.

In July 2017, OSC reported to the President and Congress that it disagreed with GSA's assertion that the reorganization would address broader concerns about mismanagement or related questions about the benefit of TTS. OSC urged GSA to follow our office's recommendations and go beyond the reorganization to mandate stringent financial controls designed to prevent future losses.

As GSA continues to address the issues identified in our reports, it faces additional management challenges surrounding the merger of TTS into FAS. For example, GSA will need to ensure that the transition does not adversely affect operations and is effective to sustain TTS's mission to "improve the public's experience with the government by helping agencies build, buy and share technology that allows them to better serve the public." Among other things, GSA will need to ensure that an effective oversight and control structure is implemented for the organization and take steps to address the challenge of frequent leadership changes and high staff turnover in TTS that makes it difficult to retain organizational knowledge.

Making Agency Cybersecurity a Priority

GSA is responsible for providing stable and secure technical solutions and services to meet the business needs of its internal and external customers, while ensuring compliance with information technology security-related laws, regulations, and guidance. Meeting these responsibilities is a significant challenge in an environment of competing priorities and increasingly sophisticated cyberattacks. GSA must address deficiencies identified through the OIG's oversight work, including weaknesses in the agency's information security program, noncompliance with applicable laws and policies, and breakdowns in the protection of sensitive information.

In its FY 2017 evaluation of GSA's compliance with the Federal Information Security Modernization Act of 2014, KPMG, under a contract monitored by my office, found that GSA's information security program was not effective. KPMG identified weaknesses in GSA's functions designed to identify risks, protect agency systems from cyber threats, and recover from potential incidents.

In February 2017, the OIG found that management failures in GSA IT and 18F caused breakdowns in compliance with IT policy and security requirements. Specifically, 18F used information technology that was not approved by GSA IT, failed to obtain proper authorizations to operate information systems, circumvented the GSA IT assessment and authorization process, acquired information technology without the Chief Information Officer (CIO) review and approval required by the Federal Information Technology Acquisition Reform Act (FITARA), and used unofficial email accounts to conduct GSA business. Our recommendations included that GSA should ensure compliance with FITARA and with the terms of a Memorandum of Agreement that required CIO review and approval of all contracts or other agreements entered into by 18F to acquire information technology or information technology services. Subsequently, in January 2018, the Government Accountability Office found that while GSA was meeting OMB requirements for CIO review and approval of IT acquisition plans, the agency was not able to adequately identify IT contract obligations, risking not having appropriate oversight over IT.

The OIG has also recently reported on threats to sensitive information maintained by GSA. These threats originate from cyber security vulnerabilities, unintentional mishandling of GSA's data, and ineffective agency responses to reported information breaches.

In 2014 and 2015, we identified and reported on unprotected personally identifiable information and sensitive building information in GSA's cloud computing environment. During 2016 and 2017, we followed up to ensure that GSA was implementing the recommended actions resulting from the initial audits. We found that in both of these areas, GSA did not fully implement all of the steps included in its action plans in response to the initial audits.

Additionally, in September 2016, we issued an audit report detailing deficiencies in GSA's response to a breach involving the personally identifiable information of over 8,000 current and former GSA employees. We found that GSA failed to notify individuals affected by the breach within the timeframe outlined in agency policy. GSA also failed to provide evidence to show that its notification efforts were successful.

We also issued two audit reports that identified information security vulnerabilities in GSA systems containing procurement sensitive data that must be protected to assure the integrity of the acquisition process

Efficiently Managing Human Capital

GSA must focus on hiring and retaining staff with the necessary skills to perform critical functions, especially given the number of GSA employees in mission-critical roles who will be retirement-eligible in the near future. GSA identified seven mission-critical occupational categories – Acquisition, Financial Management, Information Technology, Program Management, Property Management, Realty, and Human Resources – that make up 43 percent of GSA's workforce. Fifteen percent of these employees are eligible to retire now and a significant number will be eligible to retire over the next three years. The importance of a skilled workforce is further highlighted by GSA's responsibility to provide value to customer agencies, comply with increased regulatory requirements, and mitigate the risk of information technology security threats.

Federal Acquisition Service

In August 2016, the OIG reported on the need for FAS to develop a comprehensive human capital plan to address hiring, retention, and succession planning for its contract specialist workforce. Between 20 and 70 percent of the staff in each FAS mission-critical occupation is eligible to retire in the next three years. FAS must prepare to adapt to this loss of expertise.

GSA IT (Office of the Chief Information Officer)

GSA IT faces the immediate retirement of 23 to 33 percent of its staff in three of its four mission-critical occupations. GSA must prioritize the availability of qualified cybersecurity staff to operate, maintain, and protect the agency's information technology systems and data.

Office of the Chief Financial Officer

GSA's Office of the Chief Financial Officer (OCFO) is subject to several laws that result in significant workload, such as the Digital Accountability and

Transparency Act of 2014 (DATA Act) and the Improper Payments Elimination and Recovery Improvement Act of 2012. Our work on GSA's DATA Act implementation noted challenges with competing priorities and the availability of dedicated GSA resources to ensure continued progress. For example, employees working on the DATA Act also have to perform their primary roles in GSA, and GSA received no additional funding for its required work under the Act. Similarly, in our FY 2015 improper payments report, we observed that the OCFO has constant turnover and may be understaffed, likely contributing to the audit findings that the agency did not fully comply with the Improper Payments Acts.

Public Buildings Service

GSA's PBS will also face upcoming retirements of mission-critical staff within the next 3 years. For example, PBS already relies heavily on external construction managers to support its construction program. The potential retirement of more than 50 percent of its own internal project management staff within 3 years would create experience and technical voids in PBS's workforce, and force PBS to rely on consultants for administration of its more than $1 billion dollar capital construction program.

With a significant portion of its workforce eligible to retire over the next few years, GSA officials must strive to maintain technical expertise as the Agency works to meet customer demands and regulatory requirements.

Safeguarding Federal Facilities and Providing a Secure Work Environment

GSA plays a significant role in providing a safe, healthy, and secure environment for employees and visitors at more than 9,000 owned and leased federal facilities nationwide. The OIG has identified the safety and security of these facilities as one of GSA's major management challenges based on the results of a number of recent audits, evaluations, and investigations.

For example, in December 2017, the OIG issued a report entitled *GSA Should Monitor and Track Facility Security Assessments.* We found that GSA did not have facility security assessment reports for most of the buildings we sampled. GSA acknowledged that these reports, which are prepared by the Department of Homeland Security's Federal Protective Service, should be reviewed by PBS property managers to identify security issues and the countermeasures to correct them.

In March 2016, we issued two evaluation reports which concluded that GSA-managed facilities are at an increased risk of unauthorized access. We identified significant deficiencies in GSA's process for managing the Homeland Security Presidential Directive 12 Personal Identity Verification cards issued to contractors and for ensuring the completion of contractor employee background investigations. Additionally, we found deficiencies in GSA's tracking and maintenance of contractor employee background investigation data stored within GSA’s Credential and Identity Management System. We also found widespread use of unsecured, unregulated facility-specific building badges at GSA-managed facilities. GSA does not have adequate controls over these badges and cannot determine the extent of their associated security risks because it does not centrally monitor the management of the badges.

In a related example, a recent OIG investigation resulted in a GSA building manager pleading guilty in federal court for their role in obtaining a building identification card for a family member, who was not a government employee. The building manager admitted to obtaining the access card so their family member could bypass security when visiting the federal building.

The OIG is actively engaged in additional work surrounding the security and safety of federal facilities. For instance, we have an ongoing audit to determine whether child care centers in GSA controlled facilities are adequately protected from violence, fire, and life safety concerns.

Conclusion

This concludes my update to the committee on the major management challenges facing the General Services Administration. I look forward to working with the agency and the committee to address these challenges, and stand ready to answer any questions which you might have.

Carol Fortine Ochoa

Inspector General

General Services Administration

The U.S. Senate confirmed Carol Fortine Ochoa as the Inspector General of the U.S. General Services Administration on July 29, 2015. As Inspector General, Ms. Ochoa leads a nationwide workforce of more than 300 auditors, special agents, inspectors, attorneys, and other staff whose mission is to detect and deter waste, fraud, abuse, and misconduct and to promote economy and efficiency in GSA operations.

Under her leadership during the last two fiscal years, the Office of Inspector General issued 188 reports, made more than $793 million in money-saving recommendations to the agency, completed investigations resulting in 80 successful criminal prosecutions, and recovered $193 million through criminal, civil and administrative legal actions.

Ms. Ochoa's prior career experience includes over 25 years' service as a federal prosecutor and manager in the U.S. Department of Justice (DOJ). Most recently, she served as the Assistant Inspector General of the Oversight and Review Division in DOJ's Office of the Inspector General, where she oversaw complex, sensitive, and broad-ranging investigations of Department of Justice operations and personnel.

From 1989 to 2002, she served as an Assistant United States Attorney in the U.S. Attorney's Office for the District of Columbia. During her tenure in that office, she prosecuted more than 40 cases before federal and local juries and specialized in federal public corruption and fraud matters.

Ms. Ochoa received numerous awards during her career with DOJ, including the Attorney General's Award for Distinguished Service in 2007 and 2009.

Before joining the DOJ, Ms. Ochoa was an associate at Covington & Burling. She also served as an associate counsel for Independent Counsel James C. McKay and clerked for Chief Judge Charles Clark of the United States Court of Appeals for the Fifth Circuit.

Ms. Ochoa received her Juris Doctor, summa cum laude, from the George Washington University Law Center in Washington, D.C., and her Bachelor of Arts, magna cum laude, from Miami University in Oxford, Ohio.