

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This concludes my testimony.