GSA

GSA Office of Congressional and Intergovernmental Affairs

February 2, 2007

Honorable Henry Waxman
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 205015

Dear Chairman Waxman:

This responds to your letter dated January 19, 2007, regarding a *Washington Post* article about the General Services Administration (GSA). The *Post's* mischaracterization of the facts and suggestions of impropriety are unsupported.

The "three principal issues" raised by the *Post* story are characterized by inaccuracy and prejudice. Specifically, the enclosed materials will show:

1- A procedural mistake was made, discovered and corrected. In an initial attempt as new Administrator to champion the cause of small minority, women, and disabled veteran-owned businesses, the Administrator recognized and took responsibility for the mistake. The Administrator rejects the implication that her intentions were improper.

2- The Administrator did not intervene in the suspension or debarment proceedings involving five major contractors. Few of the statutory authorities as Administrator are as consequential to the government and to the business community as the authority to suspend and debar federal contractors. It is a distortion to equate a desire to be informed promptly when such decisions are pending with interference in this process.

3- The Administrator's proposal that the IG exercise fiscal discipline as part of an agency-wide initiative came well before the IG opened his investigation of the Administrator. As far as we know, the IG's investigation of the Administrator has remained open since September 2006.

GSA believes that the Committee's review of the documents will allay any concerns you may have. The Administrator is available to brief you and your Committee at your earliest convenience about our terrific organization.

Sincerely,

Kevin Messner
Associate Administrator

Enclosure
cc: Ranking Minority Member Tom Davis

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EXECUTIVE SUMMARY

1. Organization and Contents.

a. General. The documents are separated into five groups corresponding to the five separate document categories defined in the request.

b. Sources. Documents were collected from numerous sources, including, but not limited to, officials in the Administrator's immediate office, as well as the Office of General Counsel, and the Office of the Chief Acquisition Officer. Documents responsive to the requests were not typically kept in separate files. In order to ensure that our response was thorough, we conducted individual reviews of various officials' hard copy files, as well as electronic and manual searches of computer file systems and email systems.

c. Index. Documents are indexed by request number and document source, and have incorporated this information into the serial numbering system. Documents that were stored on electronic media (such as word-processing files, calendar entries, and email messages) are provided in hard copy printout.

d. Sensitive Documents. Many of the documents produced for the Committee are documents that GSA would ordinarily withhold from public disclosure under the Freedom of Information Act, 5 U.S.C. §552. These include documents for which GSA claims the privilege accorded to attorney-client communications and attorney work-product, documents that are pre-decisional in nature, the disclosure of which would be harmful to internal deliberative processes, and documents submitted by private firms containing confidential business information. Because such documents are interspersed throughout the various categories of documents produced, they have not been segregated or separately marked. The Committee should consult with GSA before releasing any of the documents.

e. Request #4.

(1) As worded, the Committee's request for "[a]ny documents or communications relating to any plan, proposal, or other effort to limit funding or otherwise restrict the IG from conducting pre-award audits," implies an inaccurate conclusion. This request has therefore been interpreted to apply to documents, not in the custody and control of OIG, relating or referring to development of the IG's 2008 budget.

(2) Documents responsive to this request necessarily include those that were used in the course of preparing the President's 2008 budget, which will be submitted to Congress on February 5, 2007. Consistent with longstanding practice of all Executive Branch Agencies, GSA is constrained from releasing such pre-decisional materials used

in developing the budget, and has therefore withheld these documents. After the President's budget is submitted, GSA will be happy to explain any aspect of its budget. There are, however, a number of documents that are responsive to the fourth request and they have been produced.

2. Information Overview.

Request #1.

"Any communications between GSA officials and employees of Public Affairs Group, Inc., or any of its divisions subsidiaries, or subcontractors, including the contract described in the *Post* article, proposals or previous drafts of this contract, and any emails between GSA officials and Public Affairs Group employees, as well as any internal GSA documents or communications relating to the GSA contract with Public Affairs Group."

Summary: The materials contained in this section of the response support the following:

a. Shortly after arriving at GSA, the Administrator was alerted by staff to the need to energize GSA's work in support of minority, women, and disabled veteran-owned small businesses with GSA officials and representatives of industry. (Bates 01-02 – 0006)

b. The Administrator took action and quickly followed up discussions with Ms. Edie Fraser, President of Diversity Best Practices, and the recognized leader in this field. Administrator Doan had worked with Diversity Best Practices in the past and had recently spoke at an annual meeting which also included speeches by bipartisan members of the House and Senate. Ms. Fraser and Administrator Doan share a passion for opening opportunities for minority and woman-owned companies and have developed a close professional relationship. (01-01 – 0010; 01-01 – 0021)

c. Based on input from staff and her own observations, the Administrator discussed the need for a very short and inexpensive report to identify best practices within GSA for utilizing small and minority, and women owned businesses. Diversity Best Practices, a subsidiary of NBC, is a respected and successful company that performs such reports and had produced similar efforts for many of the Fortune 500 companies. Diversity Best Practices, drafted a proposal, in the form of a purchase, or "service order," and sent it directly to the Administrator. (01-01 – 0003)

d. Less than 2 months into the job as Administrator, Mrs. Doan signed a service order generated by Diversity Best Practices outlining a proposal for producing a diversity report and gave it to her staff for processing. (01-03 – 0018)

e. In the process of reviewing the service order, GSA staff (including legal counsel), determined that the order did not meet government contract requirements and the contracting officer—with full support from the Administrator—sent a termination notice to make clear to Ms. Fraser that a contract for services was not in place or intended. (01-03 – 0017))

f. The government did not generate a purchase order, no contract was ever executed and no government funds were expended. Administrator Doan has no personal contractual arrangement with Edie Fraser or Diversity Best Practices of any kind. (01-04 – 0018)

Request #2

"Any communications or records of contacts between you and Ms. Fraser from the time period beginning two months prior to your appointment as Administrator until the present, including telephone logs and records, emails, calendars, office visitation logs, meeting notes, and other documents."

Summary: The materials contained in this section of the response support the following:

a. The Administrator has a long-standing professional relationship with Ms. Edie Fraser, President of Diversity Best Practices that began approximately 7 years ago. Her association with Ms. Fraser has been focused on the creation of opportunities for small minority and women-owned businesses.

b. Administrator Doan's professional relationship with Ms. Fraser, President of Diversity Best Practices, has continued, and has included exploring how the federal government might better communicate with Disabled Veteran and Native American businesses to provide opportunities for participation on GSA schedules and government wide acquisition contracts.

Request #3

"Any documents or communications relating to GSA debarment proceedings suspension actions, or other limitations on GSA business dealings with KPMG, Ernst & Young, PricewaterhouseCoopers, Booz Allen Hamilton, and BearingPoint Inc."

Summary: The materials contained in this section of the response support the following:

a. By federal statute the Administrator has responsibility for the suspension and debarment of government contractors; that authority has been delegated by the Administrator to the agency suspension and debarment official.

b. On September 9, 2006, the Administrator was informed with no prior warning that based upon findings and recommendations of the IG, that a decision had been reached to debar all major accounting firms from any further federal work. (03-01 – 0011)

c. Having no prior knowledge of the action being considered, and no evidence that senior GSA leadership had been briefed, and pursuant to her statutory responsibility for suspension and debarment, the Administrator asked that she be briefed on the proposed actions prior to final decision.

d. No further action was directed by the Administrator; and Mr. Barclay briefed the GSA General Counsel and completed the process in accordance with established agency procedures. (03-01 – 0013)

Request #4

Any documents or communications relating to any plan, proposal, or other effort to limit funding or otherwise restrict the IG from conducting pre-award audits.

3. Summary:

a. In June of 2006 the Administrator began budget discussions with agency officials with a focus on the reduction of wasteful spending and failed programs. Over a period of months, the GSA staff, led by the Chief Financial Officer, Ms. Kathleen Turco, worked on balancing the FY07 budget and creating the FY08 budget proposal. During this process, the Administrator asked all GSA divisions, including the OIG take a critical look at functions and expenses, with the goal of finding and eliminating wasteful spending . What followed were intense, line by line reviews of the entire GSA budget. FY 06, 07, and 08 financial plans and budgets were reviewed as a part of that process. Excessive travel of senor officials was sharply limited, poorly performing programs were eliminated, and each division within GSA was asked to conduct similar budgetary reviews to find sources of wasteful spending. In total 10 of the 11 divisions within GSA were able to identify specific spending that could be cut by at least 9%. When these sources of wasteful spending were added to the Administrator's proposal to completely cut several poorly performing programs, GSA was able to identify and submit to OMB for approval, a budget that called for retroactive cuts in FY06 and for FY07 and utilizing this reduced basis for FY08. Only one division, the Office of the IG, refused to identify any cuts. The OIG, in sharp contrast to all other GSA divisions, demanded a substantial increase in spending.

b. After reviewing the budget, the Administrator noted that the OIG received a $5 million reimbursement from other GSA divisions in order to supplement the $43 million budget of the OIG that was appropriated by Congress. She wanted the OIG to take efforts to manage OIG operations and efforts within the budget that was approved and appropriated by Congress and no longer depend upon an augmentation of $5 million from other GSA divisions. These augmentations were first stated as a one time solution to a budget shortfall in 2003, yet 3 years later this "one time" request for funding had grown into a standing requirement. The detailed budget review convinced the Administrator that there were several expenditures within the OIG that required further justification. These expenditures included what appeared to be excessive information technology spending. There also did not appear to be an external review of normal expenditures on travel, bonuses or expense accounts within the OIG. The lack of oversight of OIG spending, coupled with the requirement to continue to augment the OIG budget above and beyond what Congress had appropriated concerned the Administrator.

c. The IG refused to review this augmentation funding and submitted a budget that not only included continued augmentation with funds from FAS, but asked for an increase in appropriated funding.

d. In October 2006, the IG invited the Administrator to review the OIG FY07 Audit plan. The Administrator tasked the Deputy Administrator; Mr. David Bibb, to put together a working group of acquisition experts to review the plan and make recommendations to the IG. The Administrator submitted the recommendations from the working group to the IG in November 2006. The recommendations suggested delaying or eliminating some of the planned audits, but also included adding audits not included in the original plan. The recommendations were rejected. (04-04 – 04-0209)

e. The Administrator's position with respect to pre-award audits, for which FAS is paying the IG, is that this activity should be reviewed to determine whether it is the most rigorous and cost-effective method of overseeing the contracting process. (04-04 -02-04)

f. The Administrator's early concern of unjustified spending within the OIG continues. Preliminary review of IT spending within the OIG reveals a troubling and excessive IT budget and expenditures during the past 3 years. None of these IT programs, managed directly by the OIG, appear to have been reviewed by the Agency Enterprise Architecture process, the Agency system development life cycle process, the agency asset management tracking process, or the IT council to make sure proper technology insertion protocols and software reviews were followed. (04-04 – 0196)

g. Of additional concern, the OIG conducts an independent review and approval of all of its own travel claims, reimbursements, and the awarding of cash bonuses to OIG employees. The Administrator is currently reviewing documents that indicate that several OIG employees appear to have been awarded cash bonuses irregularly.

Request #5

Summary:

a. At several meetings between the Administrator and the IG, the Administrator shared concerns that she had about the nature of the relationship between the IG and the rest of GSA. She stated that employees and leaders, to include Regional Administrators, described IG activities as "terrorizing" employees and creating an environment where people were afraid to do their jobs. She asked that the IG look into this and address the perception within the IG's organization.

b. At an IG meeting on 29 November, Administrator Doan raised the issue of a report that she had received regarding a GSA employee in Region 2. That employee had been formerly employed by the IG's office and had been the subject of a sexual harassment complaint while working for the IG. Given the nature of the crime and the employee's previous involvement in such a complaint, Administrator Doan expressed her concerns about the possibility of a hostile

work environment. She said that she wanted to ensure that this employee and others were not "terrorizing" female employees within the organization.

c. A member of the IG's staff provided notes from monthly meetings to the press inaccurately describing her comments. The leaking of these notes from internal and confidential meetings with the IG prompted the Administrator to suspend these meetings to prevent further unauthorized and inaccurate disclosure of confidential matters to the press.

d. On January 4, 2007, the Administrator issued a memorandum to the IG directing that the IG inform her of significant matters, pursuant to the Inspector General's Act of 1978, by providing a monthly written report. Prior to this action by the Administrator, she would have received this information via monthly meetings with the IG and members of his staff. The inaccurate and inappropriate leaks by OIG staff to the press of matters discussed during those meetings necessitated the suspension of regular meetings; this directive ensured fulfillment of the Administrator's and the IG's statutory responsibilities. To date, the IG has refused to meet one-on-one with the Administrator and has refused to submit a monthly report. (05-03 – 0003)

e. On January 8, 2007, the Administrator issued another memorandum to the IG directing notification, to the extent permitted by law, of pending investigations involving GSA employees. This memorandum was precipitated when Administrator Doan was informed of a 3 year old IG investigation, involving senior GSA officials, which could have seriously compromised the integrity of the organization. This followed a number of similar circumstances where the Administrator was not informed by the IG of significant investigations or matters. (05-02 – 0008)