

Statement of
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before the

Subcommittee on Federal Workforce, U.S. Postal Service and the Census
Committee on Oversight and Government Reform
United States House of Representatives

On

“OPM’s Revolving Fund: A Cycle of Government Waste?”

June 5, 2013

Chairman Farenthold, Ranking Member Lynch, and Members of the Subcommittee:

Good morning. My name is Linda Rix and I am the Chairman and Co-CEO of Avue Technologies Corporation. Thank you for the opportunity to testify today and to contribute to discussions about OPM's revolving fund programs. Avue provides a comprehensive human resources management platform to federal agencies based a Software-as-a-Service, Cloud-centric model. The platform is an expert system that automatically applies the myriad of federal rules and regulations, and agency policies, that apply to various HR business processes, including job classification, performance management, hiring, learning management, and benefits administration.

Avue has been a competitor of OPM's Human Resources software products and associated services for more than 10 years.

Before founding Avue, I began my career and spent five years as an employee of OPM and I think I have a keen appreciation for what the agency was, has become, and should be.

INTRODUCTION

I want to begin by commending the Subcommittee and Inspector General McFarland for bringing transparency and clarity to the subject of this hearing, OPM's revolving funds and revolving fund authority. Examining OPM's revolving funds is a critical step in taking a stand against waste, especially in this era of tight budgets and spending controls. As Inspector General McFarland has identified, and the facts show:

...every major Federal agency purchases goods and/or services from OPM through its Revolving Fund programs and, as a result, problems within these programs impact the entire Federal Government.

...over the past 15 years, OPM's Revolving Fund has expanded exponentially into what Mr. McFarland correctly calls a \$2 billion *business*. I would add that the rate of this growth is accelerating – having grown 615% between 2005 to 2010.

...OPM's revolving fund competitive business activity, is most vulnerable to fraud, waste, and abuse through price setting, in large part because OPM's customers enter into interagency agreements without competition.

We have also assembled significant analysis that is contained in a Fact Sheet document that I would request be entered into the record with my testimony.

Since 1955 and until 2000, it was the policy of the United States Government through every administration regardless of political party that government "...will not start or carry on any commercial activity to provide a service or product for its own use if such product or service can be procured from private enterprise through ordinary business channels."

Correspondingly, federal departments and agencies have traditionally been free to purchase whatever products and services available in the marketplace best met their needs without interference from other Executive Branch components so long as the products and services met certain standards such as not being produced by child labor.

I strongly believe these two policies are together firmly rooted in the best interests of our government, our economy, and our country. Unfortunately, during the past decade, this policy has been completely subverted with respect to products and adjunct services for federal human capital management and payroll processing.

WHY OPM IS DIFFERENT: THE CONFLICT OF INTEREST DILEMMA

Even if one chooses to believe it is appropriate to have government agencies producing and providing products and services to one another in competition with the private sector, OPM should not be allowed to do so.

While OPM often suggests that its revolving funds are no different than other agencies and that there should be no cause for alarm, this characterization is patently false. No other revolving fund in government is used to run a business enterprise that sells products and services to the very entities it regulates. The potential for coercion, express or implied, is simply too great to risk.

OPM's conflict of interest and web of control can be discerned in the conduct of its business activities – which are inextricably intertwined in a complex nexus of roles and responsibilities that include, among other things:

- As the lead agency for all Federal HR policies and recommended statutory changes and reforms;
- Chair of the CHCO Council where it routinely markets its own products and services as well as preferred vendors (i.e., the subject of the recent interim report by the OPM IG concerning contract steering in favor of a specific consultant);
- Names the CHCO of the Year;
- Regulatory authority over personnel matters, with audit rights and power to revoke agency personnel management authorities;
- Manager of the USAJobs government-wide job board, for which it earns fees from agencies mandated to use it;

- Portfolio manager of the Federal HR Line of Business (HRLOB) Initiative, including contract requirements development, sole arbiter of contract terms and conditions, and serving as the source selection official;
- Contract Manager and Contracting Officer with respect to the Training Management Assistance (TMA) blanket purchase contract vehicle (this is a contract vehicle through which agencies can purchase private sector goods and services from a pre-selected group of vendors chosen by OPM and subsequently awarded contracts on a non-competitive basis).

Agency contributions to OPM's revolving funds have grown exponentially in the last 10 years, representing a 203% overall growth rate. Its human resources services (HRS) business grew by 615% in the five year period from 2005 to 2010, accelerating notably between 2008 and 2010, and averaging some \$900M a year for the past five years.

OPM's 2012 cash carryover reached a record high of \$379M, at a time when all other agency missions were seriously impacted by reduced budgets. In fact, despite a reduced workload in its background investigations function, diving steeply from a 2008 peak, OPM still brought in a record \$1.1B in 2011.

The revolving fund is now 8.6 times OPM's appropriations. Its staff level has grown 79% in that same period.

Our concern, as shared by many private companies, is that OPM acts as a regulator and a policymaker at the same time it operates a fee-for-service business that competes against private industry. OPM sells human resources products and services to the very agencies it regulates and whose human resources processes it audits. In fact, concurrent with revolving fund growth is a growing OPM audit trend is to revoke authorities delegated to agencies – effectively re-centralizing authorities delegated to agencies since 1995 – all while insulating itself from competition with the private sector.

With over 70% of OPM's budget funded by its revolving fund, fee-for-service activities, and 79% of OPM staff is engaged in performing these services, OPM is under constant peril of succumbing to its own monetary interests at the expense of what is best for the Government as a whole and furthering its extraordinary conflict of interest.

It is against this backdrop of conflicting missions that OPM's revolving funds must be considered. The conflict of interest dilemma is structural and provides a powerful incentive to continue its history of promoting waste and abusing its authority in order to sustain its growing dependency on its revolving fund. Correcting this structural defect means eliminating the underlying business that gives rise to the problems in the first place.

DUPLICATION AS WASTE

OPM sells its own services and products through sole-source interagency agreements, avoiding full and open competitions. Interagency agreements for OPM typically cite as authority for the agreement the Economy Act, 31 U.S.C. § 1535(a). However, the Economy Act does not provide authority for these agreements.

While OPM's revolving fund authority, 5 U.S.C. § 1304(e), authorizes OPM to sell HR products and services, nothing excludes procurement of those services from existing procurement laws and regulations. Thus, OPM does not have the authority to enter into interagency agreements without full and open competition and this is a loophole we urge the Inspector General to close in the same manner as it is correcting the illegal carryover of funds from one fiscal year to the next.

To resell products and services of commercial companies, OPM uses its TMA contract vehicle, which it established and manages. However, the General Services Administration (GSA) maintains the 738x Federal Supply Schedule to support agency acquisitions of the full array of HR products and services available in the market. Vendors that are on various OPM procurement vehicles are also on the GSA 738x schedule.

Where GSA is capped at a service fee NTE 0.75%, OPM's fees range from 8% to 12%, adding a layer of waste to the procurement process in the form of excessive fees. Agencies seeking to procure private company services are willing to pay OPM's excessive fees for the expediency of a non-competitive process. In one case an agency CHCO stated, "they're expensive but they're fast so we went with them."

This is a time when the entire government is seeking to cut waste, reduce duplication, and direct as much funding to mission-essential activities as possible. OPM's duplicative procurement vehicles and its use of the Economy Act to shield itself from competition should be discontinued. All of these practices increase cost and protect OPM from market forces that would require it to reduce its cost and improve the quality of its products to compete.

OPM'S HR PRODUCTS PROMOTE INEFFICIENT BUSINESS PROCESSES

Where OPM's products may appear, at first glance, to be offered at a low cost, the total cost of ownership for a federal customer is extraordinarily high. For example, the VA has a mandate to use OPM's USAStaffing products on an agency-wide basis. Because USAStaffing is technologically outdated and does not scale appropriately to the VA's size and hiring needs, the VA has had to hire more HR personnel to use the software within its operations.

In the last five years, the VA has increased its HR Specialist workforce by 51.52% - with a concurrent increase in HR payroll of approximately \$100M. In addition, in the last five years, VA has awarded approximately \$82M in human resources contracts *and* paid OPM an average of \$216M in fees or additional HR services per year for the last three years.

This kind of skyrocketing cost is typical of what OPM's products promote. While the VA should have been made more efficient by using technology to streamline complex business processes, it has, instead, had the total cost to the agency increase because it adopted an inferior technology that lags behind industry innovation by 20 years. And the VA is just one of many agencies that have non-competitively acquired OPM's products, with or without coercion by OPM, and have experienced a rise in both cost and headcount as a result.

In contrast, the private sector, in response to economic forces, reduced its HR costs. According to a PWC and Saratoga Institute report, the private sector has reduced its HR staff by 21% and its cost per hire by 28%, the federal sector has *increased* its HR staff by 41% and its cost per hire is 12.27 times that of the private sector. This is directly in line with the increased use of OPM's USAStaffing product and with the expansion of OPM's monopoly on HR services. It gets worse.

Where the average cost per hire, in all industries, has been benchmarked by the Society for Human Resources Management at \$2,744, the federal government's cost-per-hire is now \$33,677. In one instance this year, a federal agency paid OPM \$80,000 for its services to fill a single position.

For 2010, world-class companies saw costs drop by 12 percent, according to Hackett. "World-class companies now spend 28 percent less per employee on HR than typical companies, and operate with 25 percent fewer HR staff."

In contrast, HR costs per employee for the federal government have continued to rise. The cost of HR services in the federal government is now \$11,614 per employee – an expense that is 7.4 times higher than the private sector. HR costs in 2009, according to a survey of 300 private sector firms, averaged \$1,569 per employee.

In the area of background investigations, the National Security Agency, National Reconnaissance Office and State Department perform background investigations without using OPM's services. For NSA a Single Scope Background Investigation at costs between \$2,500 and \$3,000, whereas OPM charges \$4,005 -- AND the NSA completes approximately 90 percent of SSBIs in fewer than 30 days, and 100 percent within 60 days where OPM states it has 90 percent completed on average in fewer than 40 days and 100 percent within 80 days.

If private third party companies were allowed to compete with OPM's monopoly on background investigations at the Department of Defense there would be a downward pressure on cost and greater responsiveness to agencies in terms of cycle time.

OPM AS INNOVATION INHIBITOR

Recent trends show OPM has furthered the divide between government functions and best practices. Instead of leveraging its considerable policymaking authority to reform the federal human resources regulatory base and modernize the HR function, OPM has a clear self-interest in promoting inefficiencies that are better in line with its own products and services.

In turn, this monopolization of human capital management and payroll products and services has resulted in billions in wasteful and duplicative investment and spending: (1) by the providers themselves for product development, maintenance, and support, and (2) by their customer departments and agencies who are stuck with the inferior and expensive products and services that each year cost them tens of billions of dollars in wasteful and duplicative operations expenses, including the funding of thousands of unnecessary HR and administrative support positions.

The real tragedy is to see Departments and agencies repeatedly urged to be more mission effective and cost-efficient, while at the same time shackled with key operations systems that are stuck in the 1980s. Department Secretaries and Agency Directors are held responsible for the budget, efficiency, and effectiveness of their departments and agencies but are not given the corresponding authority to make their own decisions on the technology systems and associated services used in those same operations. It is an impossible situation when those accountable for the outcome are not responsible for the means used to achieve it.

OPM has explicitly prohibited agencies from selecting private sector products and services by inaccurately using section 735 of the 2010 Omnibus Bill (Public Law 111-117, Dec. 16, 2009), to assert that under section 735 agencies may only acquire HR services from federal shared service centers (SSC's) – of which it considers itself one. OPM, as a Government provider of HR services in competition with private providers, is targeting private competitors to prevent legitimate procurements from moving forward and completely distorting section 735 in order to do so. OPM, and the current federal SSCs, are operating end-of-life technologies that are in most cases mainframe based, COBOL era systems. In cases of more modern systems, these systems are still operating from 1990's technology which has been overcome by much more efficient and cheaper models such as those found in cloud computing.

Despite the fact that OPM has no authority to fabricate these roadblocks to competition, through sheer authoritative bluff these publicly communicated assertions have effectively curtailed government adoption of more innovative, efficient, and lower cost solutions. Instead, the agency is directed by OPM that it must select a federal SSC and has inserted itself by mandating OPM approval of the agency's technology choices using purely fabricated authority.

Another good example of OPM's insistence on antiquated technologies and business models is the mandate that all agencies post positions to USAJOBS. OPM has dedicated considerable resources to 'insource' the USAJOBS job board from Monster Government Solutions. As a part of that process OPM expended \$20M in re-coding the existing Monster USAJOBS system plus another \$1M in emergency fixes. To date, the features and functionality in USAJOBS are essentially what one would find in a job board from the 1990's.

In comparison, private employers have dropped their use of job boards like USAJOBS significantly. In 2013, only one of every 6 external hires is made through a job board. Today, progressive employers are reducing their spending on job boards in favor of professional networking sites like LinkedIn, search engine marketing, social media sites, employee referrals, and other strategies. In Bersin & Associates' The Talent Acquisition Factbook, "interviews with talent acquisition leaders suggest that they are generating higher quality leads at lower cost than traditional job boards. As a result, we expect the number of hires from these sources to continue to grow as these tools further revolutionize recruiting."

Continued requirements that agencies financially support the USAJOBS board keeps agencies from using that funding to source candidates using more robust sources, particularly in highly competitive jobs such as Cyber Security, where costs per recruit are lower and results are more specific and higher in quality.

WHAT SHOULD BE DONE

OPM should be divided into two components. The surviving entity should be exclusively focused on the statutory mission of OPM. The revolving fund component should be abolished because it is duplicative and wasteful and inextricably wedded to practices that lead to abuse of authority. There is no way to balance or optimize the structure of the agency to eliminate this conflict of interest. Despite OPM's claims that its fee for service operations are essential to the HR operations of federal agencies, nothing could be further from the truth. The private sector alternatives are up and running and several are specifically "tuned" to operate in the federal government.

Attachment A: OPM's Conflict of Interest and Monopoly Status

Abuse and Misuse of the Revolving Fund Inflated Pricing of Inferior Products Competes Unfairly With the Private Sector



The U.S. Office of Personnel Management (OPM) was established in 1978 under the Civil Service Reform Act as the successor agency to the Civil Service Commission. The Commission and OPM were chartered with development, release and oversight of regulations and governing rules affecting management of Federal employees.

Over time, OPM has created a conflict of interest in its primary policy mission.

As depicted in the chart *OPM Appropriations vs. Collections From Agencies*, OPM has evolved from its chartered role around policy to that of a fee-based service provider, or, as it characterizes itself — a toolmaker of technology platforms and software.

It collects more than \$2 billion annually from other Federal agencies whose funds, appropriated by Congress, were directed for programs and mission support activities and not authorized as transfers to OPM. These Revolving Funds pay for OPM products and services, often inferior and always at a cost greater to taxpayers than agencies would find from private sector solutions.

OPM has positioned itself at once as the primary provider of software solutions to Federal agencies and overseer of policies those solutions will address.

Despite numerous Congressional hearings, reports by the General Accounting Office and damaging audits by its Office of Inspector General, OPM continues to thumb its nose at any oversight attempts, increasing its costs by 360 percent without transparency to customers, adding unnecessary overhead and layers of bureaucracy that must be, in the end, supported by taxpayers, more than doubling the size of its workforce, and inexplicably misusing taxpayer dollars to replicate technology solutions already offered by myriad private sector companies at less expense and with greater functionality.

What follows are just the facts about OPM, its practices, products and services.

FACT SHEET

The Revolving Fund

OPM's "fee for service" business funnels taxpayer dollars from agency funds — appropriated for the purpose of administering programs and basic mission activities — to OPM for services rendered related to hiring and human resources functions. OPM uses these funds to create a for-profit business while shutting out better, less expensive private sector solutions.

- OPM Inspector General Patrick E. McFarland says, "While OPM has its agency financial statements audited each year, the financial statements of the Revolving Fund have never been audited in their

entirety.” McFarland says that the Revolving Fund has never been considered “material” to OPM’s agency financial statements, which include “hundreds of billions of dollars in the trust funds that OPM administers¹.”

- OPM’s Revolving Fund has exploded over the past 10 years, tripling its annual collections from agencies to approximately \$2 billion in 2012 and 2013².
- Just 15 years ago, the OPM Revolving Fund accounted for just \$191 million of its annual budget (\$272 million in 2012 dollars).³
- Since 2005, OPM’s Revolving Fund has exploded from 2.7 times its annual appropriation from Congress to more than 8.6 times that number.⁴
- In the past 10 years, OPM has collected more than \$15 billion⁵ in fees from agencies — fees that were appropriated to those agencies for use for their own programs and mission support activities and not authorized for transfer to OPM.

¹ Written testimony of OPM Inspector General Patrick E. McFarland before the Subcommittee on Federal Workforce, U.S. Postal Service and the Census, Committee on Oversight and Government Reform, U.S. House of Representatives, June 5, 2013.

² The Budget for Fiscal Year 2014, page 1167.

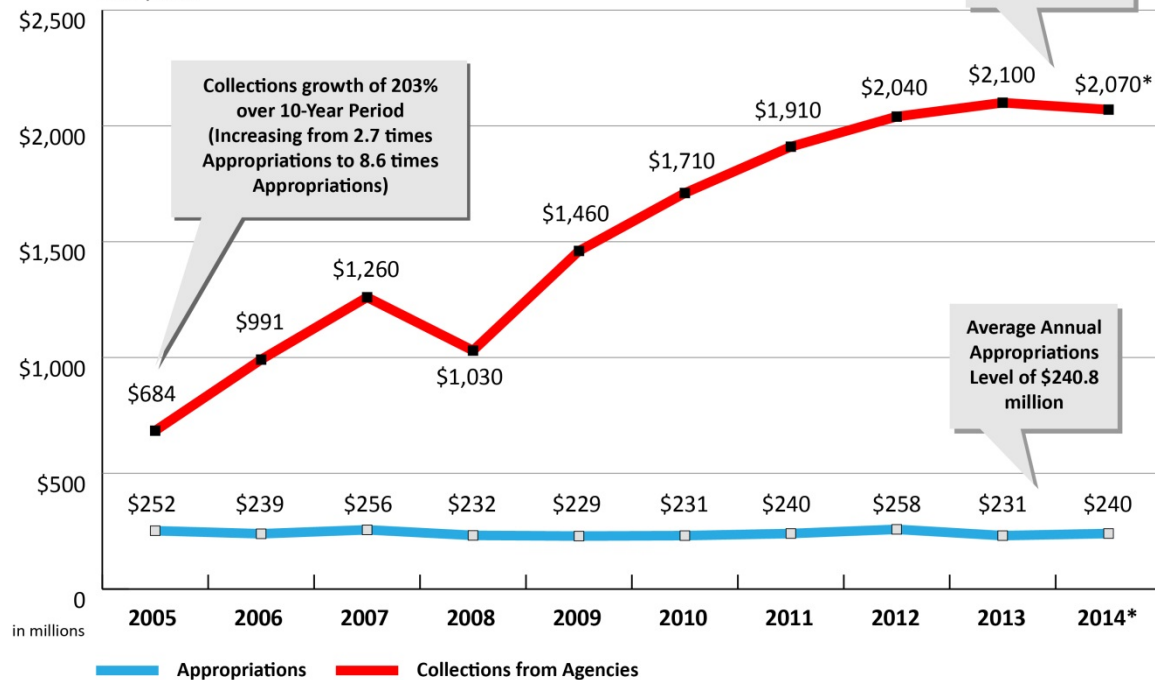
³ United States Office of Personnel Management Congressional Budget Justification Annual Performance Plan Fiscal Year 1999, February 1998. <http://archive.opm.gov/budget/fy99bjap.pdf>

⁴ OPM’s Actual and Forecasted Budgets, 2005-2014.

⁵ OPM’s Actual and Forecasted Budgets, 2005-2014.

OPM Appropriations vs. Collections From Agencies

Over the past 10 years OPM has grown the amount it collects from agencies by more than 200 percent and has operated a \$2 billion annual business for the past four years.



*2014 estimated

SOURCE: OPM's actual and forecasted budgets, 2005-2014

- These transfers of funds from agencies to OPM have little transparency and difficult to track because of OPM's own wildly inaccurate fiscal year forecasts for such transfers. In 2009, the final collected amount was 39 percent higher than OPM's forecast; 11 percent higher in 2010; 15.8 percent higher in 2011.⁶
- OPM abuses the decades-old statute, 5 U.S.C. § 1304(e)(1)⁷, which characterizes the Revolving Fund as mandatory reimbursable, stating, "Any unobligated and unexpended balances in the fund with the Office determines to be in excess of amounts needed for activities financed by the fund shall be deposited in the Treasury of the United States as miscellaneous receipts."
- OPM does not abide by the statute, instead carrying any unobligated or unexpended balances forward into the next fiscal year and using the money to bankroll new technology products.
- In addition to the list of services financed through the Revolving Fund programs, including background investigations, workforce planning, recruitment and applicant assessments, OPM also aggressively funds USA Staffing, a software product that competes with more innovative and cost-efficient commercial offerings.
- OPM has posted a net gain on operations of \$71 million over the past four years, including \$22 million in 2012⁸.

⁶ OPM's Actual and Forecasted Budgets, 2005-2014.

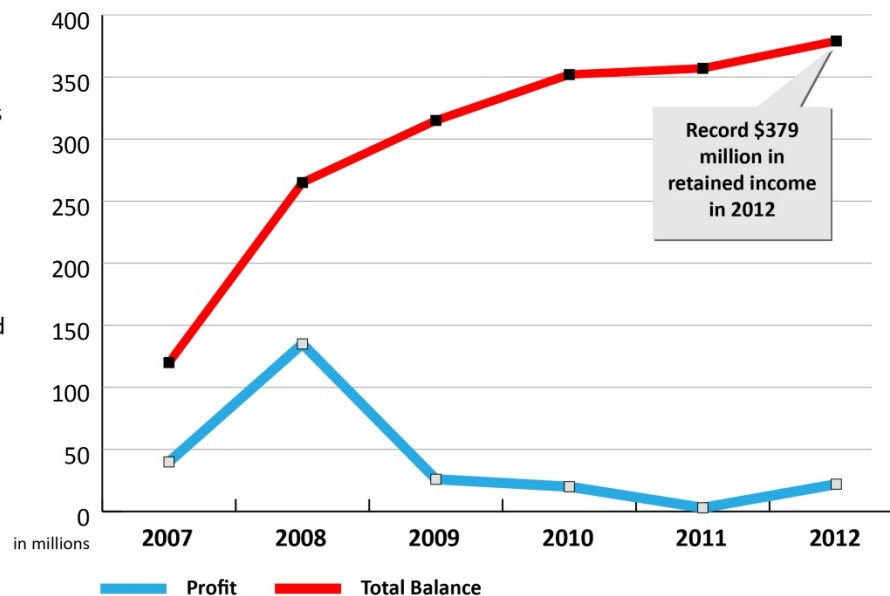
⁷ 5 U.S.C. § 1304(e)(1). <http://codes.lp.findlaw.com/uscode/5/II/13/1304>

⁸ The Budget for Fiscal Year 2014, page 1168.

- Lack of oversight and accountability allows OPM to operate the Revolving Fund programs for profit, amassing \$357 million in excess collections in 2011⁹ and \$379 million in 2012¹⁰.

OPM's Run to Record Cash

In recent years OPM has continued to see annual profits from its “fee-for-service” business while amassing more than a third of a billion dollars in cash on its balance sheet, including a record \$379 million in 2012.



SOURCE: The Budget of the Federal Government, Fiscal Years 2009 through 2014.

- OPM's recent use of its Revolving Fund to bankroll new technology projects warrants immediate examination. Past OPM Revolving Fund documentation states that each Revolving Fund program should achieve full cost recovery¹¹, meaning that these programs should be on an actual cost basis¹² and not run with a surplus.
- A 2012 GAO report noted “operating OPM's revolving fund with deficits or surpluses for 5 or more years is not consistent with the statutory goal of operating each activity on an actual cost basis to the maximum extent feasible.”¹³

⁹ The Budget for Fiscal Year 2013, page 1258.

¹⁰ The Budget for Fiscal Year 2014, page 1168.

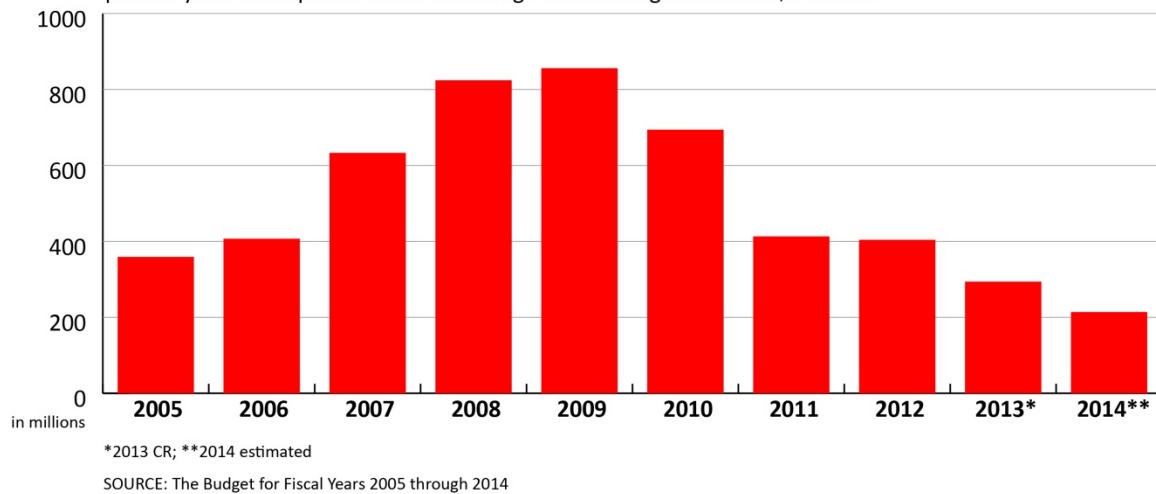
¹¹ OPM Strategic Plan, 2006-2010. http://www.opm.gov/strategicplan/archive/2006/StrategicPlan_2006-2010.pdf

¹² GAO audit on OPM Revolving Fund, April 1994. <http://gao.justia.com/office-of-personnel-management/1994/4/opm-revolving-fund-ggd-94-120/GGD-94-120-full-report.pdf>

¹³ GAO Report, Background Investigations, “Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings.” <http://www.gao.gov/assets/590/588947.pdf>

Billions in surpluses: No Oversight of OPM

For nearly 30 years, the GAO has worked to force OPM to operate on an actual cost basis, saying that surpluses in the Revolving Fund for 5 or more years is not consistent with its statutory goal. Here are the past 10 years of surpluses in the Revolving Fund totaling more than \$5 billion.



- OPM’s Office of Inspector General (OIG) says oversight of “the vast OPM revolving fund programs” is a “challenge.”¹⁴
- OPM Inspector General McFarland says, “The lack of basic oversight measures such as an annual financial audit is unheard of in the private sector. Shareholders would never entrust \$2 billion of their own money to private business managers under such lax conditions, and there is no reason why taxpayers should be asked to do so¹⁵.”

McFarland says, “Based on referrals of alleged fraud and identified audit risk factors, there is an urgent need to an immediate and strong infusion of oversight¹⁶” in the Federal Investigative Services and Human Resources Solutions Revolving Fund programs.

- Because of funds not appropriated by Congress being funneled to OPM, its Revolving Fund is extraordinarily difficult to track and has been identified by the GAO as one of the top three reasons it cannot render an opinion on the financial statements of the U.S. Federal Government.¹⁷
- OPM’s 5,689 total employees projected for Fiscal Year 2014 represent a level not seen at the agency in 20 years, when there were 5,991 in 1994.¹⁸

¹⁴ The Budget for Fiscal Year 2014, page 1163.

¹⁵ Written testimony of OPM Inspector General Patrick E. McFarland before the Subcommittee on Federal Workforce, U.S. Postal Service and the Census, Committee on Oversight and Government Reform, U.S. House of Representatives, June 5, 2013.

¹⁶ Written testimony of OPM Inspector General Patrick E. McFarland before the Subcommittee on Federal Workforce, U.S. Postal Service and the Census, Committee on Oversight and Government Reform, U.S. House of Representatives, June 5, 2013.

¹⁷ Press release by GAO - WASHINGTON (December 21, 2010) - The U.S. Government Accountability Office (GAO) cannot render an opinion on the 2010 consolidated financial statements of the federal government, because of widespread material internal control weaknesses, significant uncertainties, and other limitations. The main obstacles to a GAO opinion were: (1) serious financial management problems at the Department of Defense (DOD) that made its financial statements unauditible, (2) the federal government’s inability to adequately account for and reconcile intragovernmental activity and balances between federal agencies, and (3) the federal government’s ineffective process for preparing the consolidated financial statements. <http://www.gao.gov/financial.html>.

¹⁸ United States Office of Personnel Management Congressional Budget Justification Annual Performance Plan Fiscal Year 1999, February 1998. <http://archive.opm.gov/budget/fy99bjap.pdf>

- In its 1999 Congressional Budget Justification, OPM was proud of the fact that it had reduced its number of FTEs by 52 percent, from 6,208 in 1993 to 3,005 in 1999, “more than any other Federal agency.”¹⁹
- Between 2005 and FY2014, OPM will have grown its workforce by 79 percent.²⁰
- The number of OPM employees supported by the Revolving Fund over the past 10 years, by year:

2005: 1,550
2006: 2,613
2007: 3,063
2008: 3,127
2009: 3,115
2010: 2,983
2011: 3,557
2012: 3,668
2013: 3,278
2014: 3,615*

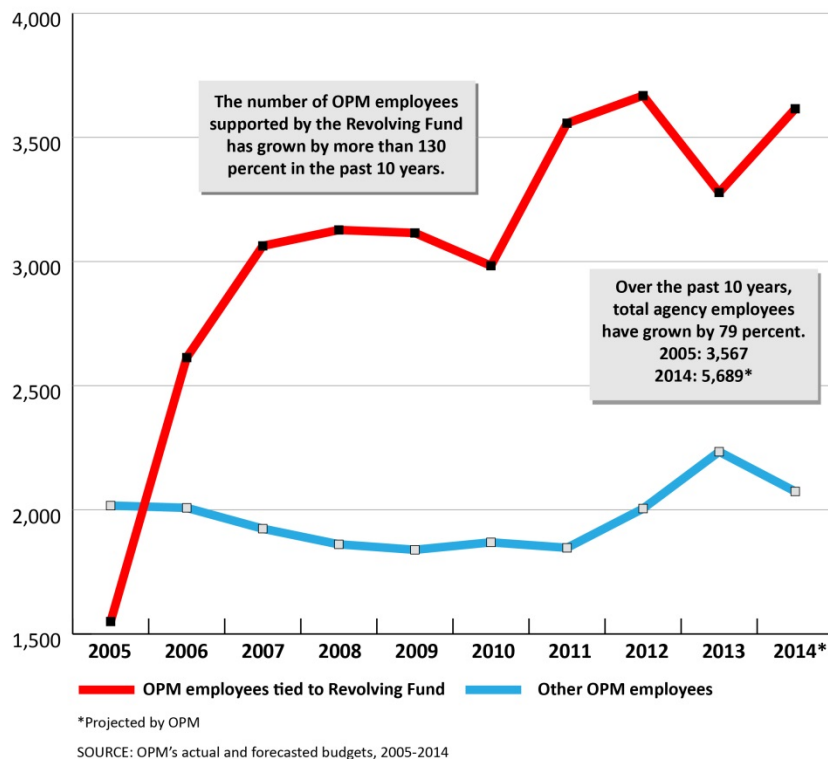
*Estimated

Human Resources / Talent Acquisition Business

Instead of providing policy guidance to Federal agencies — as is its primary mission — OPM has chosen to operate its programs as businesses and employs methods that squash private sector competition and stifle innovation. OPM’s substandard, overpriced and cost-inefficient products and services like USA Staffing and USAJobs — along with coercive tactics that force agencies to fund development of and buy those software tools — have helped OPM create monopoly status through its human resources and talent acquisition business.

Revolving Fund Bureaucracy Explodes

OPM’s fee-for-service business has mushroomed and its workforce has exploded by more than 2,100 employees in the past 10 years — additional and unnecessary layers of bureaucracy. Sixty-four percent of OPM’s payroll is supported by the Revolving Fund.



¹⁹ United States Office of Personnel Management Congressional Budget Justification Annual Performance Plan Fiscal Year 1999, February 1998. <http://archive.opm.gov/budget/fy99bjap.pdf>

²⁰ OPM's Actual and Forecasted Budgets, 2005-2014.

A monopoly achieved by conflict of interest.

Over the past 10 years, on more than one occasion, OPM directed agencies with regulatory violations regarding veterans' preference that a purchase of its products would ensure the agency would receive a clear audit report. The Department of Veterans Affairs chose this route with OPM.

OPM also has inserted itself in the decision-making process of agencies engaged in the procurement of private sector systems in competition with its products and coerced those agencies to cancel the procurements — or convinced those agencies that a procurement of products other than an OPM product would be met with adverse consequences.

OPM also routinely abuses its official role as the Co-Chair of the Chief Human Capital Officers Council to further push its products and services while specifically prohibiting private sector companies from doing so.

What have these tactics brought OPM? An unchecked and growing monopoly in the human resources and talent acquisition business.

- OPM's Office of Inspector General has completed a risk assessment of OPM's Human Resources Solutions and found OPM's methodology for its services and products and the way its customers pay for those services and products "most vulnerable to fraud, waste and abuse."²¹
- The GAO has noted in its studies on OPM that the agency has a track record of being a poor steward of taxpayer dollars by failing to provide customer agencies transparent pricing, identifying and addressing efficiencies that could lead to cost savings.
- Over the past five years, OPM's Human Resources Solutions business has averaged nearly \$1 billion annually. In 2005, OPM's HRS business accounted for just \$147 million²².
- Between 2005 and 2010, OPM's HRS business grew 615 percent²³ to \$1.052 billion.
- In its budget justifications to Congress, OPM classifies the majority of its budget in this area vaguely, as "Other Services" — no other line item breakouts, explanation or breakdown.
- In 2010, OPM classified about half — \$589,258,000²⁴ — of its HRS business as "Other Services", a little more than half of the \$1.052 billion for that year.
- In 2011, OPM classified an astounding 89.9 percent — \$723,310,000²⁵ — as "Other Services", followed by 75 percent of nearly \$1 billion in 2012²⁶.

²¹ Written testimony of OPM Inspector General Patrick E. McFarland before the Subcommittee on Federal Workforce, U.S. Postal Service and the Census, Committee on Oversight and Government Reform, U.S. House of Representatives, June 5, 2013.

²² The Budget for Fiscal Year 2005.

²³ The Budget For Fiscal Years 2005-2010.

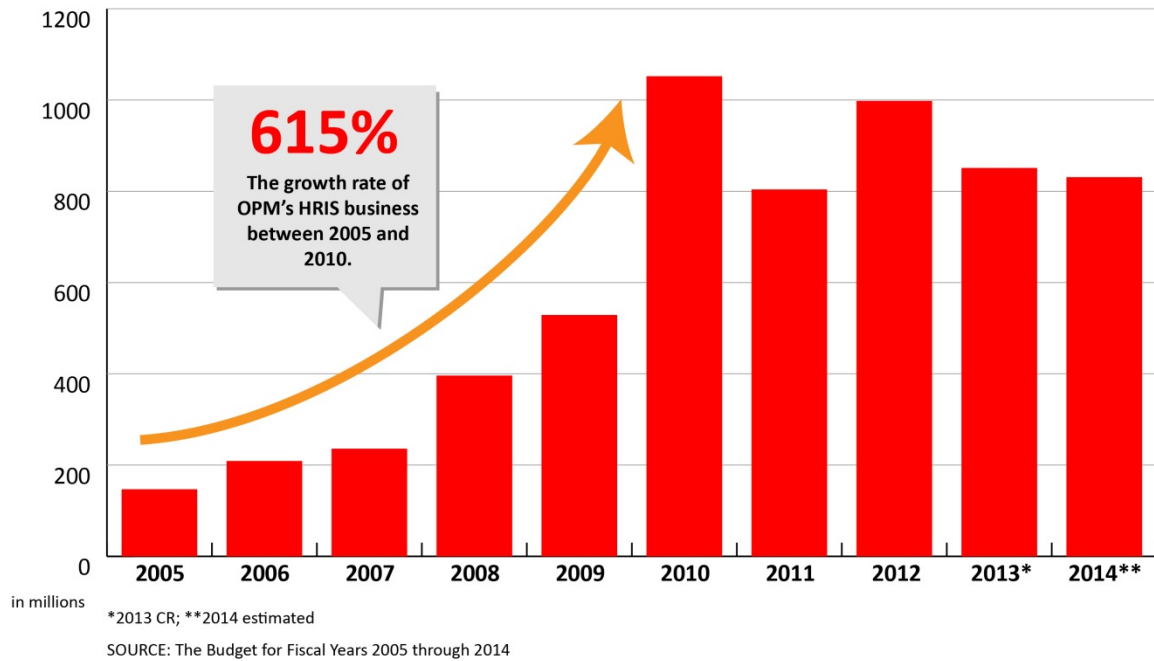
²⁴ The Budget for Fiscal Year 2010.

²⁵ The Budget for Fiscal Year 2011.

²⁶ The Budget for Fiscal Year 2012.

Unchecked Growth of OPM's HRIS Monopoly

Between 2005 and 2010, OPM's Human Resources / Talent Acquisitions business grew at a rate of 615 percent and has averaged nearly \$1 billion annually — \$907 million per year — over the past five years.



- Over a four-year period, 2010 through 2013, no insight was given into what services OPM provided to agencies for \$2.6 billion.
- The Department of Veterans Affairs is a particularly noteworthy customer for OPM displaying inefficiency, duplicative services and questionable spending.
- In 2008, the VA had 3,558 HR employees with salaries totaling \$216 million²⁷. OPM took over HR functions for the VA that same year.
- By 2012, the VA — with OPM handling the agency's HR functions — had grown its number of HR employees by 36.5 percent to 4,854²⁸.
- By 2012, the amount the VA spent on HR employee salaries — again, with OPM providing products and services — had grown more than 50 percent to \$325 million²⁹.
- That's a five-year change of 1,298 additional employees and an additional \$109 million³⁰ in salaries, meaning wasteful and unnecessary duplication of functions exist — a fact contrary to the goals of government-wide suitability and reform efforts.
- Over that same period, the VA was spending \$200 million annually on average with OPM for HRS services and products³¹.

²⁷ Fedscope and Bloomberg Government data.

²⁸ Fedscope and Bloomberg Government data.

²⁹ Fedscope and Bloomberg Government data.

³⁰ Fedscope and Bloomberg Government data.

³¹ Written testimony of OPM Inspector General Patrick E. McFarland before the Subcommittee on Federal Workforce, U.S. Postal Service and the Census, Committee on Oversight and Government Reform, U.S. House of Representatives, June 5, 2013.

- Additionally, the VA has doled out more than \$80 million in HR contracts since 2008 and spent more than \$100 million in media services (which includes ad placement for vacant positions)³².
- From 2009-2012, the VA paid OPM nearly \$1 billion for HR products and services, and still ended up incurring additional expenses of \$109 million to its salary base by 2012 and nearly \$200 million in contracts and external services for HR functions³³.

Personnel Background Investigations

The Revolving Fund for background investigations has fast become a highly controversial and expansive program under OPM, which provides more than 90 percent³⁴ of the government's background investigations for federal employees and contractors, increasingly shutting out private sector companies who can provide faster, more cost effective service. The General Accounting Office looked at OPM's business practices for background investigations under a microscope to determine what was driving its cost structure — agencies were reporting greatly increased costs through OPM's services with little insight into what additional value the agencies were receiving from these costs.

- The GAO report noted the cost for investigations nearly doubled between 2005 and 2011, from \$602 million to \$1.1 billion — and increase of 79 percent³⁵.
- OPM has estimated budget authority for Fiscal Year 2014 for its Federal Investigative Services Revolving Fund at \$1.189 billion and 2,700 FTE³⁶.
- The GAO determined that more than half of OPM's fiscal year 2011 costs, \$532 million³⁷, went to "investigation fieldwork and support contracts." Compensation and benefits for its fast-growing workforce to support its investigation business accounted for \$265 million.
- Another eye-opening expenditure from the GAO report was OPM's information technology investments — made with the agency's profits from the Revolving Fund — up 682 percent³⁸ over a six-year period to more than \$91 million in 2011.
- Despite performing 600,000 fewer investigations per year from OPM's FY 2008 high of 1.8 million, OPM still brought in more than \$1 billion in each of FY 2010 and 2011 — more than \$100 million more revenue in each of those years than in 2008.
- Interestingly, the GAO says it can't be sure of OPM's numbers for background investigations because "independent audits found material weaknesses in internal controls for OPM's overall financial management system."³⁹

³² Fedscope and Bloomberg Government data.

³³ Fedscope and Bloomberg Government data.

³⁴ The Budget for Fiscal Year 2014, page 1162.

³⁵ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

³⁶ OPM FY 2014 Congressional Budget Justification, page 31.

³⁷ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

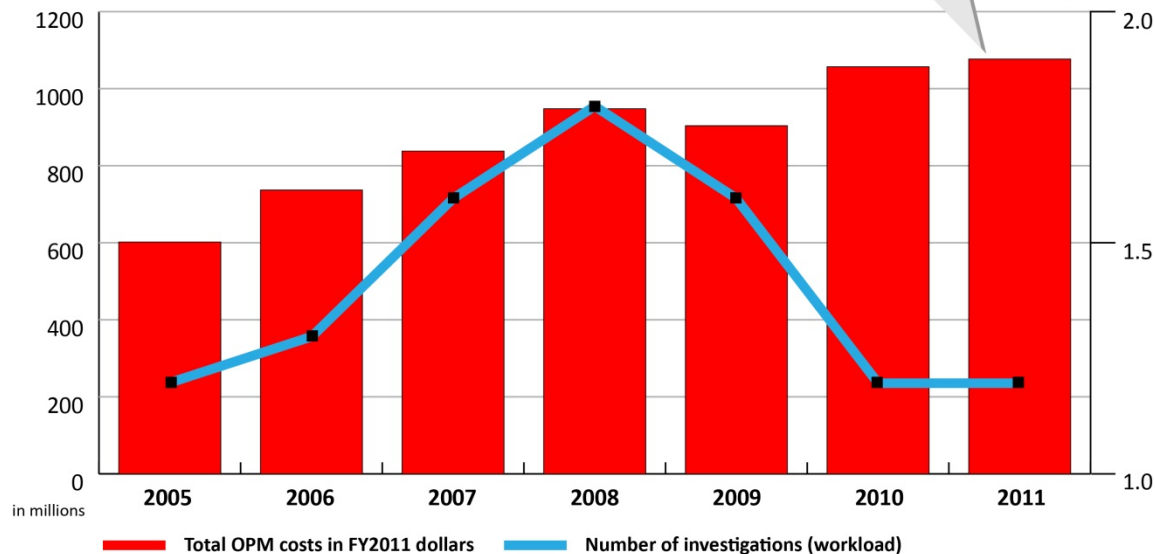
³⁸ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

³⁹ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

OPM's Run to Record Cash, Part II

Under OPM, agency costs for background investigations have soared from \$600 million in 2005 to more than \$1 billion. Despite OPM's workload decreasing by a third from a 2008 high, OPM still increased revenue in 2010 and 2011.

Despite lower workload, OPM brought in a record \$1.1 billion



SOURCE: 2012 GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings"; GAO analysis of OPM data.

- The report noted "operating OPM's revolving fund with deficits or surpluses for 5 or more years is not consistent with the statutory goal of operating each activity on an actual cost basis to the maximum extent feasible."⁴⁰
- For the Revolving Fund covering background investigations, the total surplus for the five years from 2007 through 2011 was \$227.5 million.⁴¹
- According to the GAO report⁴², "Government-wide suitability and personnel security clearance reform efforts have not yet focused on cost savings. . . . However, GAO identified opportunities for achieving cost savings or cost avoidance. Specifically, agencies have made duplicative investments in case-management and adjudication systems without considering opportunities for leveraging existing technologies. Further, OPM's investigation process has not been studied for process efficiencies that could lead to cost savings. In addition, OPM invested in an electronic case-management program yet continues to convert submitted electronic files to paper."
- OPM conducts all background investigations for the Department of Defense, which took over background investigations on a fee-for-service basis. Once OPM took over the cost per background investigation to the DoD, which spends \$750 million annually⁴³ on the service, increased.
- The National Security Agency, National Reconnaissance Office and State Department perform background investigations without using OPM's services — with some being more cost effective. One study notes a

⁴⁰ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

⁴¹ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

⁴² GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

⁴³ White Paper, "Third Party Investigation of Automated Record Checks," The MITRE Corporation, Oct. 7, 2012, page 1.

Single Scope Background Investigation at NSA costs between \$2,500 and \$3,000, while OPM charges \$4,005⁴⁴. If private third party companies were allowed to compete with OPM's monopoly on background investigations at the Department of Defense there would be a downward pressure on cost.

- The NSA completes approximately 90 percent of SSBIs in fewer than 30 days, and 100 percent within 60 days⁴⁵. OPM says it has 90 percent completed on average in fewer than 40 days and 100 percent within 80 days⁴⁶.
- The State Department controls costs by contracting at the lead level instead of the case level with tight accountability over investigators. OPM contracts at the case level⁴⁷.

OPM Pricing and Lack of Feature Functionality In Its Products

- A 2012 GAO report⁴⁸ said "OPM develops prices for background investigations using aggregated operating costs and does not provide customer agencies with transparent information underlying its prices and price increases."
- The GAO report also takes OPM to task for the difference in its advertised price for a stand-alone investigation and the final amount the customer agencies pay. The Department of Defense has said that the final price it pays OPM for these investigations is often higher.⁴⁹
- The GAO found that OPM includes "excessive overhead" in its prices and has additional costs because of its "centralized" nature that has to be covered by its pricing.⁵⁰
- Customer agencies that have delegated authority to conduct business outside of OPM's bloated price structure have found that private sector investigation providers were as much as \$1,500 lower per investigation than OPM prices.⁵¹
- OPM's prices for its products and services are an estimated 313 percent higher than those offered by commercial vendors⁵², according to third-party analysis of those figures.
- The price paid by a large agency customer for OPM's product is at least 68 percent higher than private sector products⁵³, while the OPM products provide significantly less functionality.
- Most private sector companies will offer price discounts for agencies with large numbers of employees. In the case of one private sector company⁵⁴, that meant that its cost per FTE to taxpayers was 60 percent **less** than OPM's, \$12.54 to \$21.07.

⁴⁴ White paper, "Potential 'Next Steps' for the Joint Reform Effort Third Party Assessment," published Oct. 25, 2012.

⁴⁵ White Paper, "Third Party Investigation of Automated Record Checks," The MITRE Corporation, Oct. 7, 2012, page 20.

⁴⁶ OPM FY 2014 Congressional Budget Justification, page 31.

⁴⁷ White Paper, "Third Party Investigation of Automated Record Checks," The MITRE Corporation, Oct. 7, 2012, page 20.

⁴⁸ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

⁴⁹ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

⁵⁰ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

⁵¹ GAO Report, Background Investigations, "Office of Personnel Management Needs to Improve Transparency of Its Pricing and Seek Cost Savings." <http://www.gao.gov/assets/590/588947.pdf>

⁵² NBC's "Purchasing OPM's USA Staffing Through the NBC" fact sheet (prices valid through 2009); NBC's "MGS Hiring Management Enterprise Purchasing Through the NBC" fact sheet (prices valid through 2009)

⁵³ GAO Testimony, Information Technology: OMB and Agencies Need to Improve Planning, Management, and Oversight of Projects Totaling Billions of Dollars, 7/31/2008. GAO-08-1051T and information from HRIS customer familiar with USA Staffing pricing.

⁵⁴ Based on historical private sector company pricing discount for 200,000+ agency headcount.

- OPM’s cost to agencies for use of USA Staffing includes an hourly rate of \$850⁵⁵ for support — what OPM itself notes as “HRS overhead costs” for each job posted.
- In these seven key areas, OPM’s USA Staffing product lacks applicant tracking system functionality and the ability to produce efficiencies and integrations offered by superior yet more cost effective private sector products. OPM’s USA Staffing also lacks data warehouse and Web service integration, which means that agencies using USA Staffing have additional time and costs associated with transferring this information to other HR systems.

	Private Sector Vendor Systems	OPM’s USA Staffing
Robust reporting capabilities	✓	X
Comprehensive assessment questions to support automated applicant scoring	✓	X
Data warehouse integration	✓	X
Web service integration	✓	X
Human Resource Information System (HRIS) integration	✓	X
Agency branding options	✓	X
Electronic case file management	✓	X

- OPM’s track record of developing and operating its own software systems is littered with failure, as the GAO has noted on multiple occasions. During testimony before a House oversight subcommittee hearing⁵⁶ on Nov. 15, 2011, GAO’s Director of Information Management and Human Capital Issues said that OPM, throughout multiple IT projects going back 20 years, had displayed questionable ability “not only to lead, but manage the capability going forward.”
- In August 2011, OPM’s USA Staffing crashed resulting in the loss of 70,000 federal job applications for the 54 agencies that use the service⁵⁷. The system was down for two days, then when the problem could not be fixed, OPM had to use a backup version, effectively wiping out two days’ worth of applicant activity on the site.
- OPM spent \$20 million in 2011 to deliver USAJobs 3.0 — nearly one year behind schedule — which launched in October 2011 to crashes and user complaints⁵⁸ of inaccurate search returns, inaccurate geographic filtering, server capacity issues, lost profile and saved information, account access problems, and personal information security issues.
- OPM had to spend nearly \$1 million in “emergency” upgrades⁵⁹ to fix the failed launch of USAJobs 3.0.

⁵⁵ Third-party analysis of OPM prices for single grade, series or location job postings; single series, two grades or locations; or single series, combined internal/external announcement, two grades or locations

⁵⁶ “USAJobs Site Glitches Point to Longtime IT Woes,” InformationWeek, Nov. 16, 2011.

⁵⁷ “Federal job seekers’ applications lost when hiring system goes down,” The Federal Times, Aug. 16, 2011.

⁵⁸ Compiled from OPM’s USAJobs Facebook page.

⁵⁹ “OPM spends ‘under \$1M’ for emergency upgrades to USAJobs 3.0,” FierceGovernmentIT.com, Nov. 3, 2011.

Biography for Linda E. Brooks Rix

Linda Brooks Rix is the Chairman and Co-Chief Executive Officer for Avue Technologies Corporation.

Ms. Rix is a recognized expert regarding federal human capital management business processes, legal and regulatory framework, and programs. She has been a resource for Members of Congress, Congressional Committee staff, The Wall Street Journal, The Washington Post, Politico, and dozens of industry publications, and you can hear her often on Federal News Radio discussing government policies, hiring and personnel management.

2011, Ms. Rix became a blogger for The Huffington Post, writing on politics and technology with fact-based frankness and common sense wit about the realities facing the Federal workforce and government agencies.

Ms. Rix's status is well-earned. She founded Avue Technologies Corporation in 1983 — after spending five years with the Federal Office of Personnel Management (OPM) performing appeal adjudication and regulatory and operations audits of Federal government agencies as a member of OPM's regulatory oversight group.

A true technology visionary, Ms. Rix guided Avue from its original DOS-based application in 1988 to its current Level 4, Software as a Service (SaaS) platform. Avue's SaaS model is hosted in Avue's world-class data centers and offers the ultimate in data security and scalability through its pure, server-side, multi-tenanted architecture.

Under Ms. Rix's leadership, Avue Technologies has become the leading provider of technology solutions in human capital management through its signature offering — Avue Digital Services® — and its fifteen modules and services supporting enterprise, financial, and human capital management programs and operations in a wide variety of agencies, state and local governments, and private companies.

Avue Technologies has been certified by the Office of Management and Budget, the General Services Administration, and the Office of Personnel Management as a Private Sector Federal Human Resource Line of Business (HR LoB) provider and is the only private HR LoB provider that is fully operational today. Avue's rock-solid, state-of-the-art security was granted an Authority to Operate (ATO) from the Department of Justice in 2008 and is under certification by FedRAMP under the auspices of GSA, DoD, and DHS.

Ms. Rix also serves as an Advisory Board Member on the The Agricultural Institute for Veterans And Military Families whose mission is to identify, develop, and place returning Military Service Members in long-term professions in the agriculture and manufacturing industries following their military service by recognizing and enhancing their military specialty, military strength and military experience through education, apprenticeships, internships and placing them in life-long civilian careers.

In addition, Ms. Rix has created the Avue Affiliate Program which provides pro bono job search and human resources advice and counsel to a number of non-profit organizations including:

- The American Legion
- Blacks in Government
- Federally Employed Women
- The Organization of Black Airline Professionals
- The Society for American Indian Government Employees
- The League of United Latin American Citizens
- The Federal Pacific American Council
- The Trachtenberg School of Public Policy and Public Administration at George Washington University
- The American Federation of Government Employees
- The Society of American Foresters
- The Federal Managers Association

Avue Technologies Corporation is a privately held company headquartered in Tacoma, Washington, with offices in Washington, D.C and Bremerton, Washington and data center operations in Sterling, Virginia, San Jose, California, and the Cloud.

**Committee on Oversight and Government Reform Witness Disclosure
Requirement – “Truth in Testimony” Required by House Rule XI, Clause 2(g)(5)**

1. Please list any federal grants or contracts (including subgrants or subcontracts) you have received since October 1, 2010. Include the source and amount of each grant or contract.

I have personally received no such grants or contracts.

2. Please list any entity you are testifying on behalf of and briefly describe your relationship with these entities.

Avue Technologies Corporation. I am the founder, Chairman and Co-CEO of Avue.

3. Please list any federal grants or contracts (including subgrants or subcontracts) received since October 1, 2010, by the entity(ies) you listed above. Include the source and amount of each grant or contract.

Since October 1, 2010, Avue has held multi-year contracts with all of the federal government agencies listed below. Because the pricing contained in multi-year contracts with option years is deemed proprietary and very competitively sensitive information, individual contract amounts cannot be disclosed publicly but can be shared with Committee and Subcommittee staff directly. The total contract value of the contracts held by Avue since October 1, 2010 is \$135,185,998 from the following agencies: AID, AOC, BPA, CSOSA, DODPFI, CRM, EOIR, FHFA, HUD, JMD, MCC, OJP, USDAFS, INSCOM, PC, USCCR, USCP, WHO-WHIP

I certify that the above information is true and correct.

Signature: