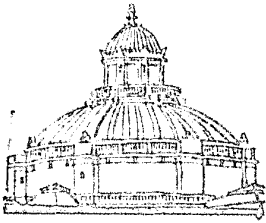




# Mini Brief



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INFORMERS

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ACQUISITIONS

GSA FRAUD AND CORRUPTION INVESTIGATIONS

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AUTHOR:

Kaiser, Frederick M.

Government Division

Smith, Stephanie

Government Division

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ISSUE DEFINITION

The General Services Administration (GSA) has been the target in recent years of a number of investigations into allegations of fraud, theft, and mismanagement. Those investigations, conducted by the GSA itself, a special Justice Department strike force, several grand juries, congressional committees, and the General Accounting Office, have resulted in 133 indictments. Of those, 95 have plead guilty or been convicted, 37 await trial, and one has been found not guilty.

BACKGROUND

The General Services Administration (GSA) was established by the Federal Property and Administrative Services Act of 1949 (P.L. 81-152; 63 Stat. 379), based upon recommendations of the first Hoover Commission, to provide the Federal Government with a central agency for the procurement, storage, and disposal of Government supplies and property. Presently GSA, with 36,000 employees, is responsible for nearly \$4 billion in contractual services and supplies and acquisition of capital assets each year.

Periodically, GSA has been accused of mismanagement and political favoritism. But the 1978-1979 allegations of fraud, corruption, theft, and bribery indicate a pattern of abuse that extends throughout much of GSA, that has existed for many years, and that might result in the largest monetary scandal in the history of the United States Government.

The following table charts the status of the 133 indictments that have resulted from the current investigations.

	<u>Total</u>	<u>GSA Employees</u>	<u>Other Federal Employees</u>	<u>Private Firms and Individuals</u>
Indictments	133	58	20	55
Guilty Pleas And Convictions	95	47	12	36
Awaiting Trial	37	11	7	19
Found Not Guilty	1	-	1	-

Grand Jury Investigations

(1) Repair Contracts: In 1976, a GSA employee in Chicago pleaded guilty to awarding fraudulent repair contracts. GSA subsequently assigned an in-house task force of auditors and investigators to check GSA records in other regions of the country. In 1977, GSA turned over the cases that its investigators had developed to the Federal grand jury investigations currently under way in Washington, D.C. and Baltimore, Md.

The grand jury investigations involve allegations of long-standing,

improper arrangements between GSA's purchasing and contract awarding officials and their suppliers. Those arrangements are said to have included requisitions of office supplies that were never delivered, payments for contractors' work that was never performed or was fraudulently overbilled, and the manipulation of "low bid" procedures, with subsequent reimbursements to the benefit of contractors willing to pay off GSA officials.

(2) GSA Self-Service Stores: The investigation of GSA yielded its first indictments under the current Administration on Oct. 1, 1978, when a Federal grand jury in Baltimore accused 18 people of participating in fraud schemes at GSA self-service stores, where Government employees buy supplies for their agencies.

The Baltimore grand jury alleged that suppliers of office goods paid kickbacks to GSA store managers for goods that were ordered, but not received. The indictments named 12 current and former managers of GSA self-service stores in the agency's Region 3, which includes Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia. GSA has 31 self-service stores in Region 3 and a total of 75 throughout the country.

On Nov. 20, 1978, GSA announced that it would close five of the 31 self-service stores it operates in the Washington area on Nov. 30, 1978. According to Walter V. Kallaur, Acting Administrator of GSA's Region 3, the stores are being closed as part of an effort to improve management systems throughout GSA.

On May 12, 1979, a Baltimore federal grand jury indicted Albert A. Matera, the former head of GSA's office supply centers in the Washington region. He is the highest level GSA official to be indicted.

(3) Private Contractors: In March 1978, the Washington Post printed charges that painting contractors overbilled GSA for work in its main headquarters building by charging for more square feet of work than physically existed. The following month, the FBI began looking into allegations that some GSA employees had received payoffs from a number of contractors chosen to repair, maintain, and paint buildings in the Washington area.

On Oct. 18, 1978, four repair contractors were charged with conspiring with building managers of the General Services Administration to defraud the Government of \$550,000. According to charges filed in D.C. Federal district court, the four contractors received awards from GSA over the last several years totaling \$1.4 million. But they performed services totaling only about \$850,000 and split the extra \$550,000 with GSA employees who authorized the inflated contract awards. Three contractors have pleaded guilty to these charges.

The Federal grand jury and a General Services Administration task force, based in part on earlier findings of a Senate Subcommittee on Federal Spending Practices investigation, began pursuing allegations in September 1978 that GSA's plan to modernize Federal offices resulted in kickbacks and illegal bidding procedures. The allegations focus on Art Metal, Inc., which sold the Government an estimated \$360 million in office furniture. After the investigation was initiated, GSA canceled a \$9 million furniture contract with Art Metal, Inc., and the company subsequently has sued GSA for subjecting it to illegal discrimination. On Oct. 8, 1978, a Federal judge

issued a preliminary injunction ordering GSA to rescind the termination of the contract with Art Metal, Inc. in compliance with the debarment provisions of Title 41, Code of Federal Regulations.

On Mar. 14, 1979, a former GSA employee was sentenced to a 9-month jail term for accepting nearly \$6,000 in bribes in exchange for authorizing payments for supplies never delivered.

In December 1978, press reports indicated that a Federal grand jury began an investigation into allegations that the Computer Sciences Corporation made payoffs to GSA employees to obtain a contract amounting to \$100 million to provide Government agencies with computer services. A Computer Sciences spokesperson has denied that any payoffs were made to obtain the GSA computer contract.

Other investigations of GSA contracts are before grand juries in Boston, Oklahoma City, and New York.

According to newspaper accounts of Jan. 17, 1979, a GSA carpenter's foreman working at the Central Intelligence Agency had a \$65,000 house built as part of an illegal payoff from a Government contractor for obtaining nearly \$1 million in contracts to perform work never completed. The GSA foreman pleaded guilty to charges from the U.S. Attorney's office for conspiracy to defraud the Government, and was sentenced to a 6-month jail term by U.S. District Court judge Oliver Gasch on June 1, 1979.

Another contractor, who admitted receiving \$210,000 from GSA for work never performed was fined \$5,000 and given three years probation.

According to newspaper accounts of May 26, 1979, U.S. District Court judge Oliver Gasch came under criticism by U.S. Attorney Earl J. Silbert for imposing "totally inadequate" sentences. In court papers, Silbert stated that "inadequate sanctions...make the risk (of committing crimes) one worth taking....They encourage dishonesty and corruption in government."

(4) Other Investigations: Additional investigations have found evidence of incompetence in purchasing on the part of GSA managers that does not necessarily involve criminal wrongdoing: for example, failure to obtain volume discounts on Government purchases for typewriters and calculators that equal discounts given to commercial customers. Other examples involve failure to get adequate rent reductions when building owners renegotiating leases persuade GSA to assume utility charges and insistence that large numbers of agency requisitions be filled from GSA depot stocks when the items could have been shipped directly from vendors at lower costs.

#### GSA Investigation

GSA's internal investigation initially was coordinated by a Special Counsel, whose newly created office combined the resources of the existing Office of Audits and the Office of Investigations. A new Office of Inspection and Complaints also was established within GSA. Vincent Alto, formerly with the Justice Department's organized crime section, served as Special Counsel from May until November 1978, when Irwin Borowski, an associate director of the Securities and Exchange Commission's enforcement division, succeeded Alto.

On Oct. 12, 1978, P.L. 95-452, the Inspector General Act of 1978, established offices for Inspectors General in 12 Federal agencies and departments, one of which was GSA. In signing the legislation, President Carter made reference to the "alleged abuses in GSA operations" and pledged that his "intention is to add at least 100 inspectors and auditors to the general services agency next year as rapidly as possible to conclude that investigation effectively." P.L. 95-452 provides that the new Inspectors General are to be Presidential appointees, subject to Senate confirmation; that they report regularly to Congress; and that "whistleblowers" who expose mismanagement or fraud are to be protected. On Mar. 1, 1979, President Carter nominated Kurt W. Muellenberg, chief of the Justice Department's organized crime section, to be Inspector General of the GSA. The Senate confirmed the nomination on Apr. 10, 1979; and 100 additional inspectors have been requested for FY80 for the new office.

During the same period, Jay Solomon resigned as head of GSA. Navy Rear Admiral Rowland G. Freeman was nominated by President Carter to replace Solomon, and was confirmed by the Senate on June 27, 1979.

As a result of its findings, GSA has instituted a number of procedural reforms to supplement the establishment of a Special Counsel and Office of Inspector General for correcting and preventing abuses. As announced by the Administrator, the reforms include:

- voluntary reinstatement of "whistleblowers" who were demoted or dismissed for revealing the problems in GSA;
- new procedural guidelines restricting sole source procurement;
- centralization of the GSA budget function managed by a new Office of Controller-Director of Administration;
- establishment of a new Office of Inspection and Complaints;
- creation of an Office of Acquisition Policy to monitor all GSA procurement practices;
- instruction to the Office of Audit to conduct pre-audit and post-audit services on GSA contracts;
- quarterly briefings on all open audit reports and corrective actions;
- new restrictions on the delegation of contracting authority;
- internal studies of two largest GSA services (i.e., the Public Buildings Service and the Federal Supply Service);
- stronger disciplinary action against employees who break laws or regulations; and
- improved inspection services and review of current leases.

Several internal developments in GSA, including criticisms by an auditor and by an investigator, have resulted in recent controversy. William Clinkscales, Jr., an investigator in the GSA Office of Inspector General and credited with helping to initiate the probe, has been transferred to another division with fewer employees to supervise. The transfer, made at the request of GSA Inspector General Muellenberg in January, 1980, has been challenged by Clinkscales, according to press accounts, in the Merit System Protection Board as constituting "reprisal and political harrassment." A second dispute has arisen in connection with an audit, prepared under the direction of Howard R. Davia, GSA's Chief of Audits, criticizing GSA for leaving vacant office space that it had leased nearly two years before. Both the Senate Federal Spending Practices Subcommittee, which has investigated the GSA scandal, and the Senate Committee on Environment and Public Works conducted hearings on these developments in January and February, 1980.

### Justice Department Investigation

The extensive scope, magnitude, and pervasiveness of the GSA scandal have brought about investigations by other Federal agencies. Offices of U.S. Attorneys and the FBI in the Justice Department are the most prominent units. Other agencies — the Internal Revenue Service (IRS), Securities and Exchange Commission (SEC), and the U.S. Postal Service -- have become involved. However, because of reputed friction among these units, then-Attorney General Griffin Bell established a Justice Department strike force, directed by William Lynch, head of the Department's narcotics and dangerous drugs section, to coordinate the investigative efforts. In addition to Justice Department attorneys and FBI investigators, the strike force includes representatives of GSA, IRS, SEC, and the Postal Service.

The formation of the strike force in September 1978 coincided with President Carter's designation of Charles Kirbo, a private attorney and an unofficial adviser to the President, to monitor the investigations of GSA fraud and to counsel the GSA Administrator on the non-prosecutorial aspects of the scandal and internal GSA reforms.

### Congressional Investigations

Inquiries into GSA fraud, corruption, waste, and inefficiency have been undertaken by a number of congressional units. Most prominent has been the Senate Governmental Affairs Subcommittee on Federal Spending Practices and Open Government, chaired by Senator Lawton Chiles, which has conducted oversight hearings periodically, beginning in June 1978, and extending into 1980. In addition, the Subcommittee conducted a year-long investigation of Art Metal, Inc., the principal supplier of metal office furniture, and its relationship to GSA. That inquiry was aided by investigators and auditors on detail from GSA, GAO, and the Treasury Department. Because GSA and Art Metal employees refused to assist the subcommittee's investigation, exercising their Fifth Amendment rights against self-incrimination, the case was subsequently referred to GSA, IRS, and the Justice Department, where criminal investigations are proceeding.

The Federal Spending Practices Subcommittee hearings have focused on the contract fraud allegations and GSA investigations of them; management deficiencies that permitted the abuses to continue, such as lack of

competitive bidding, irregular auditings, and sometimes extremely detailed specifications that may have contributed to the problem by overly restricting by the potential number of contractors for supplies and services; and proposed structural and procedural changes to correct the situation.

GSA also was criticized during the hearings for weak management, resulting in part because of the long tradition of using GSA jobs for political patronage appointments. That notion was expressed in a Business Week article quoting Comptroller General Elmer Staats, who also testified before the Chiles Subcommittee: "Procurement systems may look good on paper, but the problem comes when human beings have to operate them. If any agency in government ought to be staffed without political appointees, it is the GSA. But it got off to a bad start from the beginning [1949] on that score and never has been able to get away from it."

Moreover, the early Senate inquiries discovered disputes and a lack of cooperation among the multiple Federal agencies responsible for investigating the scandal. Sen. Chiles discussed the problem with the GSA Administrator and Special Counsel, as well as with the Attorney General and Deputy Attorney General, who reported on the Justice Department strike force.

On Feb. 6, 1979, hearings resumed, focusing on GSA operations in procuring contracts. Testimony by Rep. John Burton, as well as former and current GSA employees, centered on a 1970 GSA audit report that was not released until Jan. 29, 1979. That audit report had found that GSA could save \$100 million a year by obtaining competitive bids when buying office products. Hearings by the Federal Spending Practices Subcommittee of the Committee on Governmental Affairs have continued during the 96th Congress. On Dec. 20, 1979, the Subcommittee held hearings in a GSA warehouse to emphasize that the Federal Government has 3.7 million square feet of storage space filled with unused furniture. Senator Chiles stated that millions of dollars of usable furniture is currently being stored in 76 Washington area warehouses. On Jan. 29, 1980, the Subcommittee examined developments surrounding the disputes between the GSA Inspector General and an investigator, who was transferred to another division, and an auditor, whose report on a leased, but unused building, was critical of the Administration.

The Subcommittee later held hearings on waste surrounding the purchase of office furniture by Federal departments and agencies, continued purchases despite a GSA freeze and a surplus, and the lack of enforcement of GSA regulations in this regard. An audit report, prepared by the inspectors general in 17 Federal agencies, discovered "confusion, inconsistency, and mismanagement" and found that GSA "has been very remiss in its oversight responsibility." Following the hearings, Senator Chiles introduced legislation, S. 2435, which was referred to the Appropriations Committee, to rescind \$229 million in appropriations for the further purchase of such office furniture.

Other congressional inquiries examining the GSA scandal have been conducted by the House Government Operations Committee and the Senate Governmental Affairs Committee, in the context of 1978 hearings on the Inspector General Act. The absence of an office of inspector general in GSA, which would have centralized internal investigative authority, was perceived as a principal cause of the alleged abuses. GSA was cited as a primary example of the need to establish by statute an independent office that consolidated internal investigative and audit functions. An oversight hearing on the GSA Office of Inspector General was held in early 1979 by the House Government Operations Subcommittee on Government Activities following



its review of GSA investigative activities in 1978, prior to the IG's establishment. The Subcommittee has also begun hearings on H.R. 5381, a bill to reform Federal contracting procedures and contract supervision practices. In addition, the House Appropriations subcommittee hearings on the GSA budget for FY80 examined the investigations, the new Inspector General office in GSA, and cooperation between GSA and the Justice Department. The FY80 budget requests 100 additional inspectors for GSA.

As a result of the revelations about GSA corruption and fraud, the Senate Environment and Public Works Committee, on Mar. 12, 1979, voted to freeze all GSA building and leasing for remainder of the year. The Committee, which held hearings on GSA operations under the Public Buildings Act of 1959 (P.L. 86-249), placed the moratorium on an estimated \$1 billion in projects nationwide.

Further oversight hearings by the Senate Environment and Public Works Committee have focused on the GSA leasing and new construction policies; and Senator Simpson, a member of the Committee, has introduced legislation designed to alleviate some of the underlying problems. S. 1321 would amend the Public Buildings Act of 1959 by requiring that lease prospectuses include certain information about the owners of GSA-leased buildings. This additional information would aid in oversight of leasing practices, which, if improper, "could lead to favoritism, mismanagement, or corruption," according to the Senator. The second bill, S. 1324, mandates that the Inspector General of GSA conduct annual audits of the Public Buildings Service and report his findings directly to the Congress. According to Senator Simpson, testimony expressed the "concern that past audits within GSA have been too few and sporadic." In line with this, the Committee also held oversight hearings in February 1980 on an audit that was critical of a GSA lease and on the transfer of a GSA investigator.

On Sept. 26, 1979, the Senate Judiciary Subcommittee on Limitations of Contracted and Delegated Authority held hearings on contracting abuses at GSA. Internal audit reports were obtained which indicate that contractors have billed GSA for undocumented work.

#### General Accounting Office Investigation

GSA was one of seven Federal agencies reviewed by the General Accounting Office (GAO), which determined in 1978 that fraud and related white-collar crimes in Federal economic assistance programs account for 1% to 10% of the \$250 billion expenditures for those programs. In testimony before the Senate Subcommittee on Federal Spending Practices in September 1978, Comptroller General Elmer Staats identified the range of exploitation -- false claims for services, false statements to induce contracts or secure goods or services, bribery, false payment claims for services or goods not delivered, and collusion involving contractors.

To specific questions about GSA abuses, which by then had become prominent, the Comptroller General testified that, during the time of the GAO review:

Top level GSA officials in Washington and the various field locations visited were of the impression that fraud and abuse was not a major problem.... This attitude reflected the passive effort taken by GSA to comprehensively

assess its vulnerability. GSA, like the other agencies visited, lacked any systematic effort to identify and root out fraud.

A 1978 General Accounting Office report -- "Federal Agencies Can, and Should, Do More to Combat Fraud in Government Programs" -- contained recommendations that emphasized the need to improve identification and detection of fraud, to establish a focal point for internal agency investigations, and to heighten such investigations for the agencies and the Justice Department. Specifically, the GAO report called for:

- improved Justice Department leadership in identifying fraud, by designing specific, formal guidelines on which types of fraud cases will be accepted for prosecution and how they should be developed to increase the likelihood of successful prosecution, and by disseminating overall management information on how fraud has occurred and can occur in agency programs;
- an active agency approach against fraud, by improving relevant management procedures and investigative capabilities, improved and appropriate training for agency investigators, possible use of joint investigative teams or strike forces, and assurance that appropriate investigative action will follow reports of suspected fraud; and
- enhancement of the Federal effort against Government fraud, by developing a more active, systematic approach through fixing organizational responsibility for identifying fraud, providing information on the most likely type of fraud and its magnitude within the agencies, making employees more aware of the potential for fraud and of the controls to report irregularities to appropriate personnel, and improving consultation among agency investigators, officials, and Justice Department officials on appropriate matters.

Since the release of this report, GAO has established a special telephone hot line to receive allegations of corruption. GAO also created a Special Task Force for the Prevention of Fraud, with the chief responsibility to evaluate the adequacy of management control systems in Federal agencies in preventing fraud and to assess the adequacy to followup and corrective action taken on reports of auditors and investigators.

Several subsequent GAO investigations have focused on specialized aspects of GSA operations. One 1979 GAO report determined that the GSA does "not have reliable information to control expenditures, monitor results, or support congressional budget requests" with respect to the Administration's alterations and major repair program, a \$250 million per year program. A second 1979 GAO report criticized GSA's quality control program -- finding that it provides "little assurance that goods purchased for use by Government agencies meet contract specifications or user needs" -- and recommended corrective action.

#### Presidential Recommendations

President Carter reportedly has approved a broad-based effort against Government corruption and fraud, involving several features:

- a higher priority for investigation of Federal white-collar crime by the Justice Department;
- increased attention to Government corruption and fraud investigations by the FBI and the Criminal Division of the Justice Department;
- improved and increased staff to augment the internal investigative capabilities of agencies; and
- protection for "whistleblowers" who expose criminal conduct or mismanagement in their agencies through guarantees and procedures established by the Civil Service Reform Act of 1978 (P.L. 95-454) and the Inspector General Act of 1978 (P.L. 95-452).

### LEGISLATION

#### H.R. 5381 (J. Burton)

Amends the Federal Property and Administrative Services Act of 1949, to reform contracting procedures and contract supervision practices of the Federal Government. Introduced Sept. 25, 1979; referred to Committee on Government Operations, where hearings began Oct. 15, 1979, in Subcommittee on Government Activities and Transportation.

#### S. 1321 (Simpson)

Amends section 7(a) of the Public Buildings Act of 1959 (40 U.S.C 606(a) to require certain information concerning each principal owner of any building or space to be leased by the Federal Government under the direction of GSA. Introduced June 12, 1979; referred to Committee on Environment and Public Works.

#### S. 1324 (Simpson)

Requires the Inspector General of GSA to conduct audits of financial transactions authorized under the Public Buildings Act of 1959. Introduced June 12, 1979; referred to Committee on Governmental Affairs.

#### S. 2435 (Chiles, for himself and Pryor)

Rescinds \$229 million in appropriations provided for the purchase of furniture by Federal departments. Introduced Mar. 18, 1980; referred to Committee on Appropriations.

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Issue Brief 77094

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