

114TH CONGRESS
1ST SESSION

H. R. 3809

To establish a pilot program in certain agencies for the use of public-private agreements to enhance the efficiency of Federal real property.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2015

Ms. MICHELLE LUJAN GRISHAM of New Mexico introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a pilot program in certain agencies for the use of public-private agreements to enhance the efficiency of Federal real property.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Property Low
5 Hanging Fruit Act”.

6 **SEC. 2. PUBLIC-PRIVATE AGREEMENT PILOT PROGRAM.**

7 (a) PLAN FOR ENTERING INTO PUBLIC-PRIVATE
8 AGREEMENTS.—

1 (1) IN GENERAL.—The head of a covered agen-
2 cy shall develop and carry out a plan to enter into
3 one or more agreements with an eligible entity, for
4 the purposes described in paragraph (2).

5 (2) PURPOSES.—The purposes of any agree-
6 ment entered into under paragraph (1) shall be—

7 (A) to lease Federal real properties that
8 are underutilized or excess, under the terms of
9 subsection (c); and

10 (B) to develop, rehabilitate, or renovate fa-
11 cilities on such leased properties for the benefit
12 of the covered agency, including monetary bene-
13 fits such as lease revenues and nonmonetary
14 benefits such as avoided operations and mainte-
15 nance costs.

16 (3) NUMBER OF PROPERTIES.—The head of
17 each covered agency shall identify at least 5, and not
18 more than 10, Federal real properties to be offered
19 for lease under agreements entered into under para-
20 graph (1).

21 (b) AGREEMENT TERMS.—

22 (1) IN GENERAL.—Each agreement entered into
23 pursuant to this section—

1 (A) shall have as its primary purpose the
2 enhancement of the functional and economic ef-
3 ficiency of Federal real property;

4 (B) shall be negotiated pursuant to such
5 procedures as the head of the covered agency
6 concerned considers necessary to promote com-
7 petition and protect the interests of the Federal
8 Government;

9 (C) shall provide a fair market value lease
10 option to the United States to occupy space in
11 the facilities acquired, constructed, or rehabili-
12 tated under the agreement, but shall not guar-
13 antee occupancy by the United States;

14 (D) shall describe the consideration, du-
15 ties, and responsibilities for which the United
16 States and the eligible entity are responsible
17 and may provide for the alteration, repair, or
18 improvement of the real property as part or all
19 of the consideration of the eligible entity, not-
20 withstanding any provision of law, including
21 section 1302 of title 40, United States Code;

22 (E) shall provide—

23 (i) that the United States shall not be
24 liable for any actions, debts, or liability of
25 the eligible entity; and

1 (ii) that no person is authorized by
2 the agreement to execute any instrument
3 or document creating or evidencing any in-
4 debtedness unless such instrument or doc-
5 ument specifically disclaims any liability of
6 the United States under the instrument or
7 document; and

8 (F) shall include terms for authorizing the
9 Government to terminate the agreement for de-
10 fault or to protect the interests of the Govern-
11 ment.

12 (2) ABILITY TO PLEDGE AS COLLATERAL.—

13 Subparagraph (E) shall not impair the ability of the
14 eligible entity to pledge as collateral its leasehold in-
15 terest under a lease with the United States entered
16 into pursuant to the terms of subsection (c).

17 (c) LEASE OF REAL PROPERTY.—

18 (1) AUTHORITY.—Notwithstanding any other
19 provision of law, including sections 582 and 583 of
20 title 40, United States Code, the head of a covered
21 agency may lease real property under an agreement
22 under subsection (a) to the eligible entity that is
23 party to the agreement.

1 (2) PERIOD OF LEASE.—A lease under this sub-
2 section may be for such period as the head of the
3 covered agency determines appropriate.

4 (3) RELATIONSHIP TO HOMELESS ASSISTANCE
5 ACT.—Real property leased under this subsection
6 shall not be considered unutilized, underutilized, ex-
7 cess, or surplus for purposes of section 501 of the
8 Stewart B. McKinney Homeless Assistance Act (42
9 U.S.C. 11411) and may be leased under this sub-
10 section without regard to any other provision of law.

11 (d) SERVICES.—Notwithstanding any other provision
12 of law, the head of a covered agency, or his or her des-
13 ignee, may provide services under an agreement under
14 subsection (a) to the eligible entity that is party to the
15 agreement on such terms as the head considers appro-
16 priate.

17 (e) USE OF REVENUES.—Notwithstanding any other
18 provision of law, the head of a covered agency may retain
19 and use any revenues derived from agreements entered
20 into under this section for Federal property management
21 activities of the covered agency, including acquisition, op-
22 erations and maintenance, repairs or alterations, other
23 real property management needs, or construction needs.

24 (f) PLAN.—

1 (1) MATTERS COVERED.—The plan of a covered
2 agency required under subsection (a) shall—

3 (A) identify the Federal real properties
4 that the head of the covered agency proposes to
5 make available under the agreement or agree-
6 ments to be entered into with one or more eligi-
7 ble entities; and

8 (B) include performance measures by
9 which the proposed project or projects will be
10 measured.

11 (2) CONSULTATION WITH COUNCIL.—In devel-
12 oping the plan required under subsection (a), the
13 head of a covered agency shall consult with the Fed-
14 eral Real Property Council.

15 (g) SUBMISSIONS TO CONGRESS OF PLAN AND
16 AGREEMENTS.—

17 (1) SUBMISSION OF PLAN WITHIN 12
18 MONTHS.—The head of a covered agency shall sub-
19 mit to Congress the plan required by subsection (a)
20 not later than 12 months after the date of the enact-
21 ment of this Act.

22 (2) SUBMISSION OF EACH PROPOSED AGREE-
23 MENT TO CONGRESS.—The head of a covered agency
24 shall submit to Congress the final draft of each
25 agreement proposed to be entered into by the agency

1 and may not enter into the agreement until at least
2 30 days has expired after the date of submission to
3 Congress. The submission to Congress under this
4 paragraph shall also include—

5 (A) an explanation of the agreement;

6 (B) the name, resources, and qualifications
7 of the eligible entity or persons that are party
8 to the agreement;

9 (C) the name of any other eligible entity
10 that submitted a proposal for the property that
11 is the subject of the agreement;

12 (D) the factors in support of the proposed
13 project or projects covered by the agreement;
14 and

15 (E) the projected economic performance,
16 including expenditures and receipts, arising
17 from the agreement.

18 (3) SUBMISSION OF ALL AGREEMENTS WITHIN
19 3 YEARS.—The head of a covered agency shall sub-
20 mit to Congress all agreements to be entered into
21 under the plan not later than 3 years after the date
22 of the enactment of this Act.

23 (4) MODIFICATION OR TERMINATION OF
24 AGREEMENT.—In the case of a proposed modifica-
25 tion or termination of an agreement, the head of the

1 covered agency concerned shall submit the proposed
2 modification or termination to Congress and may
3 not implement the modification or termination until
4 at least 30 days has expired after the date of sub-
5 mission to Congress.

6 (h) PROJECTED ECONOMIC PERFORMANCE.—The
7 head of a covered agency shall describe, in the budget sub-
8 mitted by the President pursuant to section 1105 of title
9 31, United States Code, for a fiscal year, the projected
10 economic performance, including expenditures and re-
11 ceipts, arising from each agreement entered into pursuant
12 this section and in effect during such fiscal year.

13 (i) DEFINITIONS.—In this section:

14 (1) COVERED AGENCY.—The term “covered
15 agency” means each of the following:

16 (A) The Department of Agriculture.

17 (B) The Department of Energy.

18 (C) The General Services Administration.

19 (2) HEAD OF A COVERED AGENCY.—The term
20 “head of a covered agency” means each of the fol-
21 lowing:

22 (A) The Secretary of Agriculture.

23 (B) The Secretary of Energy.

24 (C) The Administrator of General Services.

1 (3) FEDERAL REAL PROPERTY.—The term
2 “Federal real property” means property, as that
3 term is defined in section 102(9) of title 40, United
4 States Code.

5 (4) EXCESS.—The term “excess”, with respect
6 to Federal real property, means excess property as
7 defined in section 102(3) of title 40, United States
8 Code.

9 (5) ELIGIBLE ENTITY.—The term “eligible enti-
10 ty” means a limited liability company, limited part-
11 nership, corporation, business trust, nonprofit entity,
12 or such other form of entity as the head of a covered
13 agency may designate.

14 (j) REPORTS BY GOVERNMENT ACCOUNTABILITY OF-
15 FICE.—The Comptroller General of the United States
16 shall submit to Congress two reports on the effectiveness
17 of the public-private agreement pilot program under this
18 section. The first report shall be submitted not later than
19 5 years after the date of the enactment of this section,
20 and the second report shall be submitted not later than
21 10 years after such date of enactment. Each report shall
22 include specific recommendations on how best to use pub-
23 lic-private agreements in all Federal agencies to improve
24 Federal real property management.

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