SITTING ON OUR ASSETS: CUTTING SPENDING AND PRIVATE REDEVELOPMENT OF UNDERPERFORMING BUILDINGS

(112–40)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
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BRIEFING MEMORANDUM

TO:	Members of the Subcommittee on Economic Development, Public Buildings and Emergency Management
FROM:	Subcommittee on Economic Development, Public Buildings and Emergency Management Staff
SUBJECT:	Oversight Hearing on "Sitting on Our Assets: Cutting Spending and Private Redevelopment of Underperforming Buildings."

PURPOSE

The Subcommittee on Economic Development, Public Buildings and Emergency Management will meet on Thursday, February 10, 2011, at 10:00 a.m., at the Old Post Office Building Annex located at 1100 Pennsylvania Avenue, NW, Washington D.C. to receive testimony from the General Services Administration (GSA), the Government Accountability Office (GAO), and a private sector real estate expert. The panel will provide testimony related to the costs to the taxpayer of underperforming or vacant assets, models for their redevelopment or reuse, and how spending can be reduced through private redevelopment of underperforming assets.

BACKGROUND

General Services Administration

The Subcommittee has jurisdiction over all of GSA's real property activity through the Property Act of 1949, the Public Buildings Act of 1959, and the Cooperative Use Act of 1976. These three Acts are now codified as title 40 of the United States Code. The Public Buildings Service (PBS) is responsible for the construction, repair, maintenance, alteration, and operation of United States courthouses and public buildings of the Federal Government. Additionally, PBS leases privately owned space for Federal use. GSA owns or leases 9,600 assets and maintains an inventory of more than 362 million square feet of workspace. GSA acts as the "landlord" for the federal government, obtaining and managing space to meet the space needs of other federal agencies. GSA, however, is just one of nine[1] federal agencies that, in total, own or manage 93% of federal real property.

Management Issues

Given the vast real estate holdings of the federal government, poor asset management and missed market opportunities cost taxpayers significant sums of money. For this reason, in 2003, the Government Accountability Office placed real property management on its list of "high risk" government activities where it remains today. GAO conducts biennial reviews on high-risk areas within the Federal government to bring focus to specific areas needing added attention and oversight. Areas are identified as "high" risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement or areas that need broad-based transformation to address major economy, efficiency, or effectiveness challenges.

The key reasons the GAO identified federal real property as high risk are:

- excess and underutilized real property,
- deteriorating and aging facilities,
- unreliable property data, and
- the over reliance on costly leasing.[2]

Unfortunately, despite executive orders and memoranda issued during two administrations and acts of Congress intended to improve the management of federal real property, these problems persist.[3] The high risk activities of Federal real property are significant. Considerable amounts of vacant or underperforming assets can translate into significant costs associated with their operation, maintenance, and security. For example, in fiscal year 2009, the federal government spent $1.7 billion in annual operating costs for under-utilized buildings and $134 million, annually, for excess buildings.[4]

Old Post Office Building

The historic Old Post Office building is an example of a major underperforming GSA property, located at a prime location in the nation's capital, just blocks from the U.S. Capitol and the White House. Built from 1892 to 1899 to house the U.S. Post Office

[1] The other major land-holding departments and agencies include the Department of Defense, Veterans Affairs, Department of Energy, Department of Homeland Security, Department of the Interior, Department of State, National Aeronautics and Space Administration, and the U.S. Postal Service.

[2] *See* High Risk Series: Federal Real Property, U.S. General Accountability Office, GAO-03-122, January 2003.

[3] *See*, for example, Executive Order 13327, Federal Real Property Asset Management, signed by President George W. Bush, February 4, 2004; Presidential Memorandum, Disposing of Unneeded Federal Real Estate, signed by President Barack Obama, June 10, 2010; Public Buildings Cooperative Use Act of 1976; Public Law 108-447, Division H, Title IV, Section 412, December 8, 2004 (providing enhanced flexibility to GSA in real property management).

[4] FY2009 Federal Real Property Report, Federal Real Property Council, September 2010, p. 5.

Department Headquarters and the city's post office, the Old Post Office (OPO) Building is the second-tallest structure in the nation's capital, after the Washington Monument.[5] It sits partially occupied and loses millions of taxpayer dollars a year.

According to GSA, it leases approximately 200,000 square feet of office space in the building to a variety of federal agencies, which include the National Endowment for the Arts, GSA, the National Endowment for Humanities, and the Advisory Council on Historic Preservation. The main OPO building sees approximately 200,000 visitors a year for the clock tower and retail establishments. The large atrium or core of the building and common areas consume 44% of the building's space, making it inefficient as an office building today.

GSA collects about $5.5 million in rent each year. The building is more than 375,000 square feet.[6] In addition, the clock tower at top the building is operated by the National Park Service. In order to make better use of the building, in 1982, GSA attempted to redevelop the lower levels of the building for retail use and awarded a master lease for 55 years to a developer for retail. In 1989, the lease was amended to allow for the construction of a new retail facility in the OPO courtyard (Annex) of 53,000 square feet and was built with both public ($1.8 million) and private funds ($5.5 million).

The OPO Annex opened but was never fully occupied and, in 1993, the private developer defaulted on its loan. GSA later bought out the remaining part of the master lease in 1998. However, the Annex now remains vacant and deteriorating. GSA spends about $12 million to operate and maintain the facility, which results in an annual operating loss of $6.5 million. Despite specific direction and explicit authority enacted into law in 2008, GSA has not yet begun the process of redeveloping the site.[7] In 2005, GSA determined that the 30-year net present value of simply leasing out the building for private development would yield an average of $21 million.[8] GSA indicated that a Request for Proposals (RFP) would be issued by the end of January 2011; however the RFP has not yet been issued.

The OPO is an example of an underperforming building that if redeveloped to better use could provide a positive return on investment. The GSA has had experience working with the private sector to turn historic buildings to profitable use. A recent example, the highly regarded renovation of the historic Tariff Building in Washington, D.C., not far from the Old Post Office, has been converted from a money losing asset of the Federal government to the Monaco Hotel, which is generating revenue for the Federal government. The redevelopment of the Tariff Building is a an illustration of what can be achieved when the Federal government works with the private sector to produce a site that brings a return to the government, provides a safe and necessary facility for the city, and preserves a unique historic treasure.

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[5] Building Overview, Old Post Office, Washington, D.C., U.S. General Services Administration.
[6] Inventory of Owned and Leased Properties, U.S. General Services Administration.
[7] Old Post Office Building Redevelopment Act of 2008, Public Law 110-359.
[8] Executive Summary of Responses to the RFI for the Old Post Office, U.S. General Services Administration, Final Draft, July 25, 2005, p. 3.

The hearing will not only focus on the OPO and its Annex, but how much these types of properties are costing the government, potential models GSA and other agencies could use to better use underperforming space, and the potential impediments that may exist.

WITNESSES

The Honorable Robert Peck
Commissioner, Public Buildings Service
U.S. General Services Administration

The Honorable Anthony J. Principi
Former Secretary, US Department of Veterans Affairs
Chairman, 2005 Defense Base Realignment and Closure Commission

Mr. David J. Wise
Director, Physical Infrastructure Team
U.S. Government Accountability Office

SITTING ON OUR ASSETS: CUTTING SPENDING AND PRIVATE REDEVELOPMENT OF UNDERPERFORMING BUILDINGS

THURSDAY, FEBRUARY 10, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met pursuant to notice at 10:17 a.m. in The Old Post Office building annex, Washington, DC, Hon. Jeffrey Denham (Chairman of the subcommittee) presiding.

Chairman DENHAM. The Subcommittee on Economic Development, Public Buildings, and Emergency Management will now come to order. This is the subcommittee's first hearing of the 112th Congress, and I want to thank our witnesses and committee members for braving the cold to be here this morning.

First, let me start by thanking Chairman Mica for providing me the opportunity to chair this important subcommittee. I appreciate the trust that you've placed in me and I will work hard to find ways to save taxpayer dollars and leverage private resources to redevelop Federal properties. I also want to build a strong partnership with the Ranking Member, Member Norton.

We have had several meetings already and we look forward to continuing our relationship. I am truly fortunate to have a ranking member with such knowledge and experience and I look forward to continuing this committee's bipartisan tradition. We are here in the annex of the Old Post Office building to turn the spotlight on vacant Federal space in Washington, and all across the country, so that we may find ways to stop sitting on our assets and save taxpayer money.

The Old Post Office building sits on prime real estate in the Nation's capital. Walking distance from both the White House and the Capitol Building on what is considered America's Main Street, Pennsylvania Avenue. Common sense would tell us this building should have tremendous value for the taxpayers; however, the reality is much different. GSA loses over $6 million annually on this building, and the annex has become vacant for more than a decade—more than a decade.

The sad fact is, there are buildings like this one all over the country. And as a former State senator from California, I've seen first hand the cost of poor management of these public buildings has on all of our budgets, and the waste is significant. In fact, excess and under used space is a key reason the Government Accountability Office placed Federal real property on its high-risk management list in 2003, and why it remains there today.

It's on the GAO's high-risk list for good reason: vacant and underperforming assets are costly to all taxpayers. According to the Federal Real Property Council in fiscal year 2009, the Federal Government spent $1.7 billion in annual operating costs for underutilized buildings, and $134 million annually for excess buildings. Last October, Chairman Mica and the Republican members of the committee issued a report entitled, "Sitting On Our Assets: The Federal Government's Misuse of Taxpayer Owned Assets."

One of the report's recommendations is to redevelop millions of square feet of idle or vacant Federal buildings, such as the Old Post Office building here in Washington, DC, through public/private partnerships. Ranking Member Norton is also a strong advocate of redeveloping underutilized properties and she wrote the Old Post Office Building Redevelopment Act of 2008. In this case, GSA has the legal authority to redevelop the building and generate a positive return. Yet, this annex continues to sit vacant and bleeds taxpayer money.

Business as usual must stop. One of our four witnesses today, Secretary Principi, has tremendous experience attracting private investment to redevelopment, Veterans Affairs facilities, and I hope we can apply these models to GSA properties. In addition, one of the first things we must do is identify underperforming assets. I understand the GSA maintains a database of Federal real property.

We have talked about that in recent days, yet we continued to find that we are absent a complete list. So that's certainly an area we will be working on very aggressively here. The practice must end, so our committee can conduct oversight of all Federal real estate properties.

I look forward to working with Chairman Mica, Ranking Member Norton and other members of our committee on reforms that will help stop wasteful spending. I also hope to work with all of our witnesses and others in the private sector who have firsthand experience turning around these underperforming assets.

I would now like to recognize Ranking Member Norton from the District of Columbia for 5 minutes to make any opening statements she may have, and we will be operating a little bit old school here today with the lack of technology or the lack of wiring here in this facility, so bear with us.

Thank you.

Ms. NORTON. Thank you, Mr. Chairman. Can you hear me? Hello!

[Laughter.]

Ms. NORTON. First, I am pleased to be serving with our new subcommittee chair, Representative Jeffrey Denham, and to welcome him to Washington. I have had the opportunity to meet with Chairman Denham and I believe that his prior State and professional experience and his expertise will serve the subcommittee and the Congress and the Nation very well.

I would like to apologize to the witnesses and to others who have come to this important hearing, and I just want to say for the record that I object to it being held in this annex. This is a hearing on the Old Post Office. The Old Post Office had a room, which would have the dignity of a congressional hearing. This is not a historic building.

It would have allowed us to see this extraordinary structure and to understand the waste. Today we examine why the development of the Old Post Office, a nearly empty, unique, historic treasure located here at 1100 Pennsylvania Avenue, Northwest, has been delayed.

What this property can tell the subcommittee about how GSA manages its real estate portfolio and how the agency can improve, by making this first hearing of the subcommittee a sight hearing at the Old Post Office, the subcommittee is making a point to GSA as the subcommittee tries to understand why the development of a company crying out for development has been repeatedly delayed in both Democratic and Republican administrations.

For more than 10 years our subcommittee and the full committee leadership have expressed mounting concern about the neglect and underutilization of this valuable government property and have pressed the GSA to develop and use this building with its considerable benefit potential—sorry—to benefit taxpayers. The implication of today's hearing and the questions we are asking could not be clearer.

We ask today: are there more Old Post Office sites languishing in full view around the Nation? The magnificence of the historic Post Office building—you'll see it if you go out there and look at it as you exit. Its central location and priceless value have long made the building ripe for development.

I am mystified why it has been difficult to get GSA through Republican and Democratic administrations to develop this building to its highest and best use in light of a directly applicable precedent, the highly regarded GSA renovation of the Hotel Monaco, formerly the Tariff Building.

The GSA renovation of the Tariff Building into the Monaco Hotel demonstrated that GSA could make excellent use of otherwise antiquated and virtually useless structures. It would seem that all that was needed was to take out that playbook that led to the born again Hotel Monaco, now providing productive use. Located just a few blocks from the Old Post Office building, the Tariff Building is a recent model that shows what can be achieved when the Federal Government works closely with the private sector to develop property, bringing a return to the government while providing a safe and necessary facility for the city and preserving a historic structure. However, GSA was either unable or did not try hard enough to overcome OMB's objections to proceeding on the Old Post Office building despite consistent bipartisan insistence by the subcommittee.

Finally, we included in the 1998 Omnibus Consolidated Emergency Act language that required GSA to submit a viable development plan to Congress. That plan was submitted in December 2000 and on May 16, 2001, this subcommittee approved the plan by resolution. Notwithstanding these efforts, the desired development has not occurred.

The waste and risk posed by the way GSA managed the Old Post Office building became even more apparent with a violent altercation and killing of a George Washington University student outside the Old Post Office building in May 2005, following rental of the Old Post Office for an event held there as part of GSA's efforts to rent the facility and gain revenue from the building.

Congressional oversight requiring development of the site continued, but GSA did not issue a request for expression of interest or RFI until late that year, and only after the violent incident. The RFI received many indications of interest; however, for no good or sufficient reason, GSA has never proceeded to the next step of development, although private developers view the Old Post Office as a trophy building at a trophy location here between the White House and Congress.

In 2008 in exasperation I introduced H.R. 5001, the Old Post Office Building Redevelopment Act of 2008 directing the GSA to move forward. How many bills and how many hearings does it take to get GSA to develop a single property. Is the Old Post Office emblematic of GSA's management of its properties nationwide? Whatever GSA's response, this subcommittee has no alternative, particularly given today's budget deficit, except to require GSA to use the assets it has available or to sell them.

The Old Post Office building is a historic treasure that cannot be sold; but, GSA's management of the building is a drastic example of an underperforming asset that has long been a drain on our Treasury when it could provide a handsome financial return to the government as the Monaco Hotel has done. GSA spends $12 million to operate and maintain the Old Post Office building, while only collecting $5.5 million in rent, which results in an annual loss of $6.5 million.

This subcommittee has taken action to provide new tools to develop GSA property. In 2007 Congress enacted and the President signed Public Law 108–447, which contained a measure that granted GSA two new significant kinds of authorities, often referred to as 412 authority. The first allows the retention of proceeds from the disposal of real property; and, the second is additional real property disposition authority, including authority for leaseback arrangements.

To date, GSA has yet to implement this authority to develop any of its underutilized property on site anywhere in the United States, even though there are opportunities that could bring the government a handsome return. It should not have been necessary for the subcommittee to come to this annex today to get the requisite attention to the languishing property of the Old Post Office site and others like it.

The burden is on our witnesses today to get us out of this building, and particularly out of this annex; and to get the government out of leasing real estate properties that could be redeveloped or could be sold, and I thank you Mr. Chairman.

Chairman DENHAM. Thank you, Ms. Norton.

At this time I now call on the Chairman of the full Transportation and Infrastructure Committee, Mr. Mica.

Mr. MICA. Thank you. Well, thank you, Chairman Denham and Ranking Member Norton, also Ms. Edwards for being with us today, Mr. Crawford from a warmer climate in Arkansas, and maybe even Maryland's warmer than here today.

I was hoping, actually, when we were planning this hearing and I kept looking at the temperature that we'd have a warmer day; but, in fact, it is a cold day for Members of Congress, but it's been an even colder decade for the taxpayers who've had to foot the bill for an empty building in the heart of our Nation's capital as Ms. Norton said just a few blocks from the White House and a few blocks from Capitol Hill.

Now, I know Ms. Norton, and having worked with her she's done everything she could to move forward. It is a sad day when we have to come here on a cold day to emphasize the lack of moving forward with this property. We've talked about this property now for more than a decade, and it's been vacant for more than a decade. So I'm hoping under your leadership, Chairman Denham and other members of the committee, that we can turn this situation around. If GSA doesn't have the tools to make a difference, then we need to provide them with the tools.

If they don't have the initiative or the incentive to move forward, then we've got to make certain that we provide them with that here. Now, if this isn't bad enough, being in this empty building, is that next door you have 400,000 square feet of which there are only 400 Federal employees, and almost half of that space is vacant, underutilized, and is a loss of over $6.5 million per year. This goes on and on, a waste of taxpayer dollars.

Now, if this wasn't the only example, this empty building and next door underutilized, just read a little bit about the report we published on sitting on our assets and the underutilized and underperforming public buildings. This is a national disgrace, and this isn't the only example of it. So somehow, we've got to get a handle on this. The annex that we're in is only 53,000 square feet, and the government is again losing money by the hour in keeping it vacant.

In 2008 the Federal Government's real property portfolio totaled 3.29 billion square feet of space. A review of the three agencies in 2009 by GAO revealed about 10 percent of their properties were in excess or underutilized, meaning there could be as much as 330 million square feet of extra space costing taxpayers billions of dollars each year to maintain them.

GSA in particular holds 282 underutilized buildings that are costing the taxpayers nearly $100 million a year, so our report details some of this. It's cold and I'm not going to go into detail. I don't know what the answer is. I don't know if we should give up on GSA and other Federal agencies that look to retain some private management agencies to better utilize and capitalize and get a better deal for the taxpayers. But I'm willing to look at any solution.

The answer is not what we're seeing in a cold, empty building today. We have got to do better and we must do better, because millions of taxpayers and Americans are counting on us. Yield back the balance of my time, and I thank everybody for enduring one of the colder days in Washington.

Chairman DENHAM. Thank you, Mr. Chairman.

I now call on Ms. Edwards for a brief opening statement if you look.

Ms. EDWARDS. I think I'll pass.

Chairman DENHAM. Mr. Crawford.

Mr. CRAWFORD. Thank you, Chairman.

I want to thank Chairman Mica for his leadership on this effort and the opportunity to serve on the economic development of public buildings and emergency management subcommittee.

I am from Arkansas. This won't make you feel a bit better, but believe it or not it is colder there than it is here. I am looking forward to working with Chairman Denham as well as Ranking Member Norton, and the full committee to preserve this historic building. Our goal is to make sure that historic Federal properties fulfill their highest and best use of preserving them for future generations.

The Old Post Office is just one example of the many properties that we have worth saving. I look forward to working with Chairman Mica and I thank him again for this opportunity.

Chairman DENHAM. Thank you. I would like to welcome our witnesses and thank them for being here today; and, I want to thank Commissioner Peck of GSA for making the space available for this hearing.

I ask unanimous consent that our witnesses' full statements be included in the record. Without objection, so ordered.

Since your written testimony has been made a part of the record, the subcommittee would request that you limit your oral testimony to 5 minutes. This is the first committee hearing of this committee, but I do expect to not only run an efficient committee, but be very mindful of everybody here's schedules, so thank you in advance.

We have one panel today: Mr. Robert Peck, Commissioner of Public Building Service, U.S. General Services Administration; Mr. David Wise, Director, Physical Infrastructure Issues; the Honorable Anthony Principi, former secretary of the Department of Veterans Affairs; and Chairman of the 2005 Defense Base Realignment and Closure Commission, the BRAC.

I would like to thank all of you for joining us today. Commissioner Peck, you may proceed.

TESTIMONY OF ROBERT A. PECK, COMMISSIONER, PUBLIC BUILDINGS SERVICE, GENERAL SERVICES ADMINISTRATION; DAVID J. WISE, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE; AND THE HONORABLE ANTHONY J. PRINCIPI, FORMER SECRETARY, DEPARTMENT OF VETERANS AFFAIRS

Mr. PECK. Thank you, Mr. Chairman, and Chairman Mica, Chairman Denham, Congresswoman Norton, Congresswoman Edwards and Congressman Crawford. Thank you for the opportunity to talk to you today. I am, I was going to say, happy, but I am still happy to be here to join you at the Old Post Office, a fitting if cold example of a redevelopment opportunity that this administration is prepared to take.

By a number of measures, I have to say, GSA, itself, is a leader in asset management of our building inventory and leases, and I will talk about our performance compared even to private sector measures. We are building on our successes and managing our assets with aggressive efforts to improve utilization of government space across the government to deliver new and innovative work place strategies and use the authorities we have to further partner with the private sector to benefit taxpayers.

Since 2002 GSA in the space that we control, which is about 375 million square feet of space has undertaken a major portfolio restructuring. We have disposed of 204 vacant or underutilized properties in the GSA inventory, totaling the more than 9.5 million square feet and receiving $227 million in proceeds which we were able to do, by the way, under the section 412 authority that Congresswoman Norton mentioned. This represented a 5.3 percent reduction in GSA's own portfolio and eliminated some $460 million in operating costs, and rather in repair liabilities.

And I want to give credit to one of my predecessors, Joe Moravec, a former Commissioner of Public Buildings, who I know is sitting here today. This administration recognizes the need to do a better job at getting rid of surplus and excess property, and in June of 2010 President Obama issued a memorandum, "Disposing of unneeded Federal real estate put GSA along with other agencies in charge of culling through the Federal inventory of excess assets and making sure that we get them out of the inventory." And in his State of the Union Address, a few weeks ago, President Obama emphasized that this is going to be a priority for him.

First, I want to talk a little bit about how we manage our GSA assets. Just to let you know, the national vacancy rate right now for real estate, because we have a soft market, is somewhere between 15 and 20 percent. The comparable rate in the GSA inventory is 2.4 percent. We manage our assets well; and, here, I want to get our terms clear. When in the Federal Government's real estate inventory report, we recorded an asset as surplus or excess, or underutilized. As always, there's a term of art here.

Underutilized property can include property, for example, that are under renovation. So some properties that look like we're not using them, we're not using them only temporarily, because we're upgrading them so they can be used better and more intensively. Having said that there are clearly Federal surplus properties, and GSA is very good in our inventory of tiering our properties. We know we have a three-tier system based on performance measures, return on investment measures in which we decide whether an asset in our inventory is worth keeping, or in the long run is going to be disposed of.

For other agencies across the government, GSA serves as a real estate asset manager also, and we are in charge, except for defense properties and some others, a few others in the public lands, mostly, as the disposal agent. Under the 1949 Federal Property Act we disposed of properties in a number of ways. One is we can take them to sale. Two, we can give them to public entities, States and localities, for certain specified purposes in the law.

And then I have to say, just as a reality check, some of our properties are in areas where it's hard even to give them away. They just are someplace that nobody wants them, and some of those will be retained in the inventory. I say that not to say that we don't want to get out everything we can, but just to say that some part of the excess inventory is probably not amenable to redevelopment.

One other long-term trend which I want to note that we are working on is that we believe that in the Federal inventory we can make more intensively use of the space that we do have, and we are working very hard with Federal agencies to take advantage of the new mobile workplace technologies that allow workers to work wherever they can and to use less space for an employee so that in the years to come, you should be seeing us use less real estate for the ongoing functions of the government.

I do want to point to a couple of examples of places where we have used our authorities to get rid of surplus property. For example, in 2007 we sold more than 50 acres of land at the Denver Federal Center. We got $18 million in cash from the county, and $6 million in easement and environmental remediation done by the public entity and a good example of how we can work with the locality to promote economic development.

They built a hospital, provided a rapid transit station there, and we still occupy an adjacent parcel of land. In 2000 under the leadership of Ms. Norton, the Congress passed the Southeast Federal Center Public-Private Development Act. We redeveloped what had been part of the Navy Yard in Washington, DC, and over the term of that agreement, if we expect to see proceeds of $43 million to the Federal Government, a great example of a public-private development.

As Mrs. Norton noted, and when I was in GSA before, we began redevelopment of the historic Tariff Building in Washington, DC, as Ms. Norton noted, an example directly relevant to the Old Post Office building. And the Tariff Building, which is on a long-term ground lease to a hotel developer, will over the course of the lease, we believe, earn $50 million in revenues for the Federal Government.

The Old Post Office itself represents a unique opportunity and unique history. We renovated this building, the Federal Government did, in the late 1970s, early 1980s. The Government put in money and so did a private developer put in $28 million to develop the retail uses in the building. This annex, itself——

Chairman DENHAM. We would ask you to be mindful of the time.

Mr. PECK. I will. I'm summing up.

Chairman DENHAM. Thank you.

Mr. PECK. In 1989 this annex was built with $5.5 million in private funds, and $1.75 million in public funds. This building itself was a commercial failure. The owner went into default, and the Federal Government eventually acquired the leasehold.

With direction provided by Congress in the Old Post Office Building Redevelopment Act of 2008 we should now be able to leverage the private assets and the public assets in this building with private sector investment to create a new development. We are—I have to say this carefully. We are examining best approaches to doing that and working on the right kind of request for proposals that would include, for example, all of the safeguards that we would expect and you would expect to safeguard the government's interest.

Finally, I'll just note that we very much support and enjoy the opportunities we have to work with the private sector in redeveloping vacant or underutilized Federal properties. We do believe that this building, itself, is a great example of one of those opportunities; and, obviously, I'm happy to answer any questions.

Chairman DENHAM. Mr. Peck, thank you for your testimony.

At this time, Mr. Wise, you may proceed.

Mr. WISE. Good morning. I think I could still turn the pages of my statement, but Chairman Mica, Chairman Denham, Ranking Member Norton and members of the subcommittee, thank you for the opportunity to testify today on our work related to Federal real property; and, in particular, the issue of excess and underutilized property held by the GSA.

GSA, often referred to as the Federal Government's landlord, controls more square feet of buildings than any other civilian Federal agency. GSA provides a range of real estate services to its tenant agencies, which it finances through a revolving fund called the Federal Buildings Fund.

In January 2003 we designated the management of Federal real property as a high-risk area, in part because of excess and underutilized property. Other reasons included overreliance on leasing and the challenges associated with protecting government assets from terrorism. Later this month we will report on the status of these issues as part of our update to the high-risk series.

My testimony today will discuss (1) the scope and cost of excess and underutilized real property held by Federal agencies, particularly GSA; and, (2) the challenges they face in disposing of excess and underutilized real property.

Scope/Costs:

In fiscal year 2009 Federal agencies, including the Department of Defense (the government's largest property holder), reported 45,190 underutilized buildings accounting for about $1.66 billion in annual operating costs. While not all underutilized properties are unneeded, nevertheless, such buildings represent the first places to look for possible consolidation that could facilitate property disposals.

GSA itself has a number of such properties. In fiscal year 2009, GSA reported 282 excess or underutilized buildings costing about $93 million a year. For example, GSA's excess properties include an office building warehouse complex, covering about a million square feet in Fort Worth, Texas. GSA spent about $1.4 million in fiscal year 2009 to maintain this complex.

The administration is continuing to focus on disposing of unneeded properties throughout the government. A June 2010 Presidential memorandum to Federal agencies established a new target of savings $3 billion governmentwide through disposals and other methods by the end of fiscal year 2012.

Challenges:

The Federal Government's real property portfolio presents significant management challenges. We found that many government real property assets are no longer effectively aligned with agencies' changing missions. As a result, many may no longer be needed.

A number of factors may impede the government's property disposal ability. Numerous stakeholders have an interest in how the Federal Government carries out its real property practices, including local governments and business interests, private sector construction and leasing firms, historic preservation organizations, various local advocacy groups, and the general public. These competing stakeholder interests may result in barriers to real property disposals. In 2007 we recommended that OMB could assist agencies by developing an action plan to address key problems associated with unneeded real property, including reducing the effects of stakeholder interests in real property decisions. OMB agreed with the recommendation, but has yet to fully implement it, because it's unsure of a strategy to reduce stakeholder interests.

Legal issues may impact real property decisionmaking. As we reported in 2007 Federal agencies are required by law to assess and pay for environmental cleanup that may be needed before disposing of any property. In some cases, the cost of this cleanup may actually exceed the cost to maintain the excess property. Also, certain legislative mandates, such as the McKinney-Vento Homeless Assistance Act and the Public Benefit Conveyance Program may lengthen the disposal process and/or result in zero net proceeds to GSA. As a result, GSA officials have stated that they are unlikely to have sufficient time to identify additional properties, complete disposal, and achieve the cost savings by the 2012 deadline mandated in the aforementioned Presidential memorandum and will need to employ other strategies to meet the goal.

In conclusion, the government has many excess and underutilized properties that cost billions each year to maintain. Despite efforts to reduce this inventory, multiple obstacles remain that preclude any quick and easy solutions. GSA is in a unique position to take a leadership role, to promote innovation in how the government manages its excess underutilized properties. Until these obstacles are overcome, this issue will remain high risk. Mr. Chairman, this concludes my statement, and I'm happy to answer the subcommittee's questions.

Chairman DENHAM. Mr. Wise, thank you for your testimony at this time.

Mr. Principi, you may proceed.

Mr. PRINCIPI. Thank you. Thank you, Mr. Chairman, and members of the committee. It's a pleasure to be with you this morning.

I would like to provide my views as to creating value from underutilized and underperforming Federal assets. My testimony today is based on my experiences as Secretary of Veterans Affairs from 2001–2005. I also served as chairman of the 2005 Defense-based Realignment and Closure Commission.

When I assumed my responsibilities at VA, VA was the Federal Government's second-largest department, being comprised of a nationwide system of healthcare facilities and services, benefit program and national cemeteries for our Nation's 25 million veterans and their dependents.

The department was and is now a major landholding agency with a diverse portfolio of property with over 33,800 square acres of land—over 5500 buildings with about 146.9 million square feet at approximately 270 locations. This is in addition to leasing over 15.5 million square feet nationwide.

While VA is one of the largest direct providers of healthcare in the world, it has an aging infrastructure with an average age of buildings of over 50 years, many of which were built after WWII when treatment was primarily rendered in in-patient facilities.

Also, since that time we've seen a profound change in the delivery of healthcare in America, and certainly at the VA. As a result, a significant amount of space either was underutilized or became vacant. In order to address these challenges and in an effort to encourage significant operating cost reductions and savings that could be applied to expanding medical care for veterans, I undertook two initiatives.

The first was to bring all the stakeholders together: the Veterans organizations, academic medicine, our physicians, to craft a blueprint on how we could transform the VA from a hospital centric system to a patient focused system. Close down unneeded hospitals and open up hundreds of outpatient clinics in veterans communities, so that they get access care without having to drive hour after hour to a VA medical center to get their prescription drugs or primary care—things that can be done on an outpatient basis.

Secondly, I asked two gentleman: Michael Simmons, one of my senior legal counsels, and Tony Kushner who I took from the Navy, to establish a new management approach that could be used as an additional tool in VA's management of its infrastructure. That approach was ultimately enacted by Congress, and has become known as enhanced use leasing.

Enhanced use leasing is a cooperative arrangement for the development of underutilized or vacant Federal property. Basically, an agency leases Federal property on a long-term basis to a public or private entity for the development of non-Federal or Federal uses. In return for the ground lease, the agency obtains fair consideration which could be in the form of money, facility, space, services or in-kind consideration.

When applied in the context of an agency's facility acquisition strategy, the results can be very favorable. For example, a VA administrative officer is not significantly different from a commercial office building. During my tenure at VA, we built three major office buildings along with parking facilities that were privately financed, developed and operated on what was once vacant VA land, so that veterans would have the benefit of one-stop shopping—a VA medical center, an adjacent medical center, a benefits office where they can apply for their benefits. Further, because these buildings were constructed on Federal land, title to the buildings passed to the government on expiration of the ground lease.

The EU authority also serves as a useful portfolio management tool. A good example is the Chicago lake side enhanced use lease. Using this authority, we implemented a much needed realignment of two underperforming VA medical centers in Chicago. One hospital was an aging high-rise facility located in the heart of Chicago's Gold Coast, Michigan Avenue. It was expensive to operate, and it will serve the veteran patient base that had moved from downtown Chicago, and returned for a long-term lease of that campus to Northwestern University Medical Center and the Rehabilitation Institute of Chicago.

VA received over $50 million that could be applied to building a new vet tower for veterans in the west side where most of the veterans who were accessing the VA lived, and it turned out to be a very, very successful program. So I believe that both enhanced use leasing and having Federal agencies come together with their stakeholders to devise a plan for the future can indeed lead to the better utilization of vacant or underutilized property.

Thank you Mr. Chairman and members of the committee.

Chairman DENHAM. Mr. Principi, thank you for your testimony. At this time we'll start around of questioning. The first question goes to you, Mr. Peck.

As you know, Congress passed legislation in 2008 to direct GSA to redevelop the building we are in today. In accordance with existing authorities, GSA has authority to redevelop underperforming buildings even without special legislation; but, it is my understanding the special legislation was needed last year, even though this building has went vacant for over a decade.

Can you explain why the timing and why this has taken so long?

Mr. PECK. Well I can speak some for the period of time I wasn't at GSA. One, I think that there have been, as you know, times when it's a good time in the real estate market to go out with a proposal like this and times when it's not. So if I could focus on 2008 to the present, I would be more useful; but, I will note that I'm the guy who signed the report in 2000 suggesting that we redevelop the building.

It clearly took during the succeeding years—I'm not quite sure what was going on. But I do know that since I've been back at GSA, in 2009 we've taken a long, hard look at the building; and, in December 2009 we had a panel of the Urban Land Institute take a look at the building, give us some advice on how we might put it out to market.

Their suggestion at that time was it was not a good time to take the building to market because of the softness in the real estate economy. I can tell you that one reason we have rekindled our interest and are prepared to go forward is that we have been approached by a number of development interests who've told us that they are interested in taking the Old Post Office building in some kind of an arrangement that probably parallels what we did for the Hotel Monaco.

So I'm hoping sometime soon to be able to report to you that we are going out to the market, and we will, when we do that, select a developer, negotiate a lease, and as the law requires bring it to this committee for its review.

Chairman DENHAM. You made a determination in 2000. You personally made a determination in 2008, and 2009 you decided it was a soft economy and were not prepared to sell at that time; and, yet, it took 2010 to actually push legislation to get things moving. We're still in a soft market right now. Are we not?

Mr. PECK. The hotel market has been actually quite active in the last 6 months or so, 6 to 8 months. The chronology, again, in 2008 Congress passed the Redevelopment Act. I came back to GSA in 2009. In late 2009 we were advised by a real estate panel that that was not a good time to go to market; but, I can tell you that by at least halfway through midyear 2010, we were being approached by developers who said that the market—at least for hotel and some high-end office uses—had changed. Then it might be a good time to go back out to the market. And we have been working actively since at least 2009 to prepare for bringing this building to market.

Chairman DENHAM. So are we prepared to go to market now?

Mr. PECK. We are. GSA is working diligently to produce a request for proposals that we can put out on the street.

Chairman DENHAM. And when do you expect that to be complete?

Mr. PECK. I don't want to give you an exact timeframe, but I can tell you that we are prepared pretty soon to go out.

Chairman DENHAM. In your best estimation, when do you think the people of this fine city will actually be able to walk through here and see development taking place and be able to utilize this building?

Mr. PECK. Well, let's say we could get an RFP on the street in a couple of weeks. It would probably take—our assumption is that we could make a selection for a developer by somewhere around June-July of this year and probably take another 9 months or so to negotiate a lease. That's our experience in getting to a real development agreement. I've done this in the private sector, and that's about the same timeframe that I experienced doing that kind of work there too.

Chairman DENHAM. So beyond listing the property as surplus, excessive or unneeded properties, beyond that, putting the proposal out to request and actually finding somebody and moving on it so that it's taking it off of our roles, what do you expect that average timeframe would be?

Mr. PECK. Well, I would say if we could negotiate——

Chairman DENHAM. That's understanding how long it takes just to declare something surplus from the land grabs of all the other agencies.

Mr. PECK. Well, in this case, we don't in the case of this building, at least. Are you talking about this building, still, Mr. Chairman?

Chairman DENHAM. I'm talking specifically about this building, but I'm trying to get a good understanding as the President has talked about this being a priority. As he talked about it in the State of the Union, we are now looking at budgetary numbers and making some tough decisions.

I want to get a good idea that we can take back to the taxpayers of this Nation and say it's going to take us 5 years to sell properties or it's going to take us 5 months.

Mr. PECK. Right.

Chairman DENHAM. It's an extraordinary time, and I think it's going to take extraordinary measures.

Mr. PECK. This property, again, I described the process before. On this property, we don't have to declare it surplus or anything else. The Congress has declared for us that this property should be redeveloped. So I'm telling you that the amount of time it would take to negotiate a lease and then for a private sector entity to actually build out the space, whatever they're going to do, I think you'd probably expect that we're looking at 2½ to 3 years.

Three years, I would guess, is a better guess of how much time before they cut the ribbon and whatever happens in this building happens, and we can say we've got an asset in full operation again. For other properties, as you've mentioned, someone has to declare the property first excess to the government needs.

It's GSA's job when that happens to go to other Federal agencies and see if anyone needs that kind of an asset. That's a process that can take as little as 30 days, and then we declare a property after that surplus to the government's needs. And then we go through this, Mr. Wise described a process in which we have to offer it by law to homeless groups to see if it's of use to them, and then we offer it to State, county and city entities to see if they can use it for certain purposes. And after that we're allowed to take it to a sale if nobody claims it.

I also have to say though that there have been times when we've had properties ready to go to sale in various public and political interests have delayed even that happening, so it can take a while. I can also tell you that things can happen pretty fast.

Chairman DENHAM. So there are a number of regulations that are impeding your process?

Mr. PECK. There are at times, yes, sir. But once we get it out to sale, I can tell you that we do on-line auctions. We're pretty good at that technology. We can move properties pretty fast. We sold a building in Bethesda a couple months ago for $12½ million.

I think the on-line auction took us about 2 months to work through. So things can move fast when we can be very businesslike once we actually finally make the decision, we have a property, and we can put it out on the street.

Chairman DENHAM. Well this committee expects to be very aggressive. We plan on making sure that we have plenty of lists. My final question to you yesterday, at my request you provided me a list of surplus properties. There were only about 30 properties on that list, even though GSA has thousands under its purview.

Mr. PECK. Right.

Chairman DENHAM. And you explained why there were only 30, but why this building in particular is not on that list?

Mr. PECK. Yes, sir. Well, this building has never, as I said, this building has never gone through the surplus property process at all. It's not declared surplus. It's been declared by the Congress as an asset that we should redevelop, and we're happy to do that.

The 30 properties that you got on your list were the 30 GSA-controlled properties, in other words, properties in the GSA inventory per se that are surplus that we are actively—and we are actively marketing those properties. Of the thousands of other government properties, I will be happy to work with you to get you the list as we can.

There are some internal government regulations about how and when we are allowed to release lists from other government agency surplus properties, and that's what has not allowed us in a short timeframe to respond to your request, but I can assure you we will. We want to work with you. We're as motivated as you are to get surplus assets out of the government inventory. I can assure you that.

Chairman DENHAM. How quickly do you think you'll be able to provide lists by agency to this committee?

Mr. PECK. Mr. Chairman, I've been in and out of the government and I would love to give you an estimate. But I'd like an opportunity to go back and figure out how fast I can move it. I honestly don't know. There is a cumbersome, probably too cumbersome process involved in getting the list out.

Chairman DENHAM. I understand the inefficiencies of government. I understand that it's taken over 10 years on this property in particular. We do not have that time.

So let me issue a warning to every agency, that we are going to be demanding lists. We want to know what properties are being utilized, underutilized, accessed or surplused; and, you know, we want to provide the President every opportunity to sell properties.

But we are coming after agencies to get those lists, so we are hopeful that every agency will be encouraged to work with us on a very quickly basis; and, if there are any red tape, if there's anything that's prohibiting them from providing those lists, we will make sure that this 112th Congress facilitates that process in a quick manner.

Mr. PECK. I appreciate that, Mr. Chairman.

We are accountable to you. I work for the President. He's breathing down our neck also, and we have a mutual interest in moving these properties.

Chairman DENHAM. Thank you. At this time, I'd like to open it up for questioning. I'll recognize each member for 5 minutes, and I'd like to start this round of questioning by recognizing Chairman Mica, first.

Mr. MICA. I am after Ms. Norton.

Chairman DENHAM. This time, Ms. Norton.

Ms. NORTON. Thank you, Mr. Chairman.

My good friend, the full committee chair, does have a flare for the dramatic. The next time you want to make a point like this, I would suggest that you station Mr. Peck here. And telecast the hearing for the rest of us, who had nothing to do with the malfeasance that we'd find in here, do not have to suffer with Mr. Peck.

[Laughter.]

Chairman DENHAM. At least we're not on Pennsylvania Avenue, outdoors, in front of the FTC Building.

Ms. NORTON. Oh, is that a threat, Mr. Chairman? All right. We'll see how your fight is.

Mr. Peck, in a meeting last year I asked you to have an RFI out by the end of the year. We're now into every word. I want you to tell us exactly where the RFI is. Is it with GSA or is it at OMB?

Mr. PECK. Ms. Norton——

Ms. NORTON. Now, you know, if we can't get straight, Mr. Chairman, this committee, unlike some committees hasn't always sworned witnesses. We may have to start. I am asking a direct question, and it is real clear. I want to know. Is it at GSA or have you transmitted it to OMB? Yes or no. Where is it?

Mr. PECK. Ms. Norton, the RFP is under review both by GSA and OMB at the moment.

Ms. NORTON. What does that mean?

Mr. PECK. Well, we are responding to some questions from OMB about what aspect of the RFP.

Ms. NORTON. Why in light of the fact that you had a full model before you, you don't have to start from the beginning with a historic building. You've got the tariff building. Why have you been unable to move forward?

Mr. PECK. Well, two things; one is that we learn the Hotel Monaco/Tariff Building project was a successful project. We did learn some lessons from it that would apply to this project. This is a slightly different asset, requires something different. But I can tell you that we do have a request for proposals that is in almost final form.

Ms. NORTON. Mr. Peck, I think you should deliver this message, since you say it's two places. That 30 days from today the chairman of the subcommittee expects the RFP to be out or to have an explanation from the Administration as to why it is not out, one or the other within 30 days to the chairman of the subcommittee.

Mr. PECK. I will be happy to deliver that message. I can assure you.

Ms. NORTON. Appreciate it. By the way, you had one RFI and they came forward in large numbers.

Mr. PECK. That's correct. That is correct.

Ms. NORTON. So you already know the kinds of uses that the private sector thinks a bit, and yet you had to go out with another RFI or you're doing an RFP now. This is so redundant and repetitive, leading nowhere, and the patience of the subcommittee has gone completely out.

You indicate, and I realize this goes over many administrations, but Mr. Peck, do not refer to the state of the market. Not here where the market is stronger than it is in any other part of the country, and when in fact you had a bull market in 2005, and it wasn't out in 2005 either. I don't think you can blame it on the market.

I think that the blame has to be taken where it is in the Administration, and that's who we're going to hold responsible—not the people who would love to have this trophy building out there to build on. What obstacles have kept you from using the kind of authority Mr. Principi uses routinely and which the Congress gave you by statute, otherwise known as 412 authority?

Mr. PECK. Since I have been back at GSA, when I was at GSA in the Clinton administration, we didn't have the 412 authority.

Ms. NORTON. Now, just a moment. I only have so much time. What obstacles since you have been an administrator have kept you from using 412 authority?

Mr. PECK. Since I've been the Commissioner, there are no legal obstacles to using 412 authority?

Ms. NORTON. What are the obstacles?

Mr. PECK. There really are few obstacles. One is finding a property that's marketable, that the private sector will be interested in.

Ms. NORTON. Are you joking, Mr. Peck?

Mr. PECK. No, ma'am. Can I finish, please?

Also, all of those properties, all proposals to do those sorts of things have to go through internal government review. And, in some cases, they are reviews that——

Ms. NORTON. Mr. Peck? Mr. Peck, within 60 days would you transmit to the chairman of this subcommittee a list of properties that have the potential for the use of 412 authority, within 60 days to the chairman of this subcommittee?

Mr. PECK. I would be happy to do that.

Ms. NORTON. Would you provide a list within 30 days of all the properties in the national capital region where GSA is currently losing money?

Mr. PECK. Yes, ma'am.

Ms. NORTON. I'd like Mr. Wise and Mr. Principi to indicate whether you think the government scoring has been an obstacle, why it hasn't been an obstacle for Mr. Principi, apparently, why what Mr. Wise believes would be the reasons why an agency would use 412 authority.

We see that Mr. Peck uses the authority when he is selling or disposing of property; and, look! We've allowed them to keep the money, but GSA, it's pretty easy to sell properties. Some of our properties are themselves quite extraordinary properties, and I do understand that some, of course, the market wouldn't be interested in.

So, you see, you know, you put it up for sale. You sell it. And that doesn't take a lot of expertise. Even I could do that, but I couldn't build something. And you haven't used 412 authority to build, and yet you are the builder. You are the developer for the Federal Government.

So Mr. Wise and Mr. Principi, while you are able to build, Mr. Wise, why are they not able to build since they are in fact the developers for our government?

Mr. WISE. Congresswoman Norton, thank you for your question.

I think it's fair to point out that many of the challenges that GSA faces are really governmentwide. As I mentioned in my statement, we did recommend in 2007 that OMB, along with the Federal Real Property Council (of which GSA is a member), should develop an action plan to address key problems associated with unneeded property, including reducing——

Ms. NORTON. I am asking about disposing a property. I have indicated, I think, the easy part. And besides we get to keep the cash. I am asking about building properties. I am asking about developing properties, and I want to know whether there are structural obstacles. I even mentioned scoring. I am not sure that's particularly relevant since they do have 412 authority.

I also heard Mr. Principi, a major builder of the Veterans Administration. So I am trying to understand why a summit, what agency builds and the other agency disposes, what sort of I can't build.

Mr. PRINCIPI. We, Madam Ranking Member, we complied with OMB scoring requirements. Obviously, it was problematic at times getting our plans through OMB; however, we persisted. We provided them with the scoring, and as a result, we were able to develop the buildings, as I indicated, regional office buildings on the grounds of VA medical centers, so that we could provide veterans with better service and save money by not leasing property in the city, if you will. So I think we accomplished both objectives.

Ms. NORTON. Finally, Mr. Wise, you see structural obstacles at scoring and obstacle of those 412 authorities, essentially eliminate that obstacle for GSA?

Mr. WISE. Congresswoman Norton, we have not specifically addressed that issue in our recent work regarding GSA, but it is certainly something we would be willing to discuss with subcommittee staff to take to develop that issue.

Ms. NORTON. Mr. Peck?

Mr. PECK. May I? It is to answer your question. Section 412 gives us the authority to do land exchanges or public-private developments, which would allow us to build on a piece of government land, for example. But all proposals to do that do have to go through the scoring review at OMB.

Ms. NORTON. Do you regard scoring as an obstacle to using the 412 authority?

Mr. PECK. Yes, ma'am. No question about it; I mean, it is similar to Capitol East decisions in the private sector. However, just going through that review and trying to figure out a way in which you can make it work for the government is a difficulty.

Ms. NORTON. I thank you, Mr. Chairman.

I don't know how Mr. Peck would understand that there was a scoring problem, since OMB or CBO waits to see what you've got before it scores. And since, Mr. Peck, you don't have anything to show us or to show CBO, then of course we cannot know whether or not you could do 412 authority, as Mr. Principi does, without being scored. I urge you to find out.

Mr. PECK. Well, Mr. Principi may have clarified, and he can answer for himself, but the enhanced use lease projects in VA do have to go through a scoring review.

Mr. PRINCIPI. Yes, they do.

Ms. NORTON. And somehow they make it.

Mr. PECK. That's true.

Chairman DENHAM. Thank you. I now call on Chairman Mica.

Mr. MICA. Well, I'll try to be brief since everybody's about frozen.

Mr. Peck, the ranking member has asked for certain documentation which we would like to share, not only have come to the chairman of the subcommittee, but also to the ranking member in the timeframe sheet allotted.

Also, if you could, in the next 30 days I would like to see your recommendations for any changes. If OMB is the problem, if something is an impediment, we've passed laws, several laws. We've passed specific laws to do this, and we're still sitting here in an empty, vacant building.

I asked the counsel of the committee or staff director if we talked to the private sector about what would speed this up. And with the private sector and probably many of them are out here today are most of them backed away from this about talking about what's going on. They're afraid to publicly say anything, because they deal with GSA.

So we can't get out of them a straight answer what the hell to do with this, so somehow, if we have to subpoena these people in and figure out a way to get these projects done and moving. Unfortunately, this mess that we are sitting in is only the tip of the iceberg, and this is repeated over and over. And Mr. Wise is saying that OMB held up an action.

Maybe you could reiterate to the committee in writing, too, what you see as the obstacles in the next 30 days, and Mr. Peck, you. And then somehow, if we have to drag some of these folks in, we will put them under oath, Ms. Norton, or whatever the people in the real estate business that have to deal with these folks. But, this isn't getting done, and it's just frustrating.

We've been talking about this, I think, my entire career with you, and again, we've got to do a better job. So those are two requests—expect hopefully in the next 30 days to get those to the committee.

Mr. PECK. Yes, sir.

Mr. MICA. I yield back the balance of my time.

Chairman DENHAM. Thank you. At this time, I would like to invite Ms. Edwards up.

Ms. EDWARDS. Thank you, Mr. Chairman.

I am shocked I can still move.

[Laughter.]

Ms. EDWARDS. Just a couple of questions, and to Chairman Mica and Ranking Member Norton, I haven't been dealing with this for many, many years, and don't intend to spend my congressional career trying to figure out what GSA is doing with the properties, with Federal properties. I am curious, though, of the 9600 or so assets that you have indicated.

Mr. Peck spoke to several different types of properties, and I would be interested when you report back to us to have some indication of where those properties are geographically, and where they fit in those tiers, because not every property is just alike. And I mentioned to Chairman Mica when I came in, my recollection of the Post Office building used to come here actually quite regularly.

It was much more vibrant earlier on, but that was before the redevelopment, the full redevelopment of Pennsylvania Avenue. And it feels as though the property didn't keep pace with the full redevelopment, and so as a result, no retailer. You know, sort of hiring retailers, restaurateurs and commercial occupancy really took place in the building. But the Post Office building is quite unique in the inventory, and so it helped to understand the differences in the inventory so that we can construct both our request and oversight to match those differences as some properties, it would seem to me, should be easier to move to market than others.

It would also be helpful to know, and perhaps you can tell us now, the distinction between the domestic properties and those abroad, and the different challenges the properties abroad present versus the inventory that's here domestically. And what portion of those millions of square feet represent—properties that pose different challenges—because they're not located here in the United States?

Mr. PECK. No. Let me answer your first question. I don't have any internal regulations making it difficult for me to get you their tier list of our properties. We'll do that right away, and I appreciate you're asking the question.

Ms. EDWARDS. Well, what about the full 9600 in assets?

Mr. PECK. That's what I mean. We tier the 1500 properties that we own. The other 8,000 are leases in private sector buildings. But in the 1500 we own, which is about 170 million square feet, we can give you those tiers really quickly.

Ms. EDWARDS. Thank you.

Mr. PECK. For properties overseas, GSA doesn't actually manage the overseas properties. They are managed either by the Defense Department, by and large, or the State Department. And we can get to the answer to that.

Ms. EDWARDS. But are they considered part of this broad asset base?

Mr. PECK. They are, yes, ma'am.

Ms. EDWARDS. And if it's not helpful, I think, for the subcommittee to be looking at an asset base of what we think are 9600 assets, when in fact some percentage of them are assets abroad that are not within your purview.

Mr. PECK. Right. That's exactly right. There are hundreds of thousands of government assets. Only 9600 are GSA, and as you note there are a good number of assets overseas. We can get you answers on that, too.

Ms. EDWARDS. Thank you. And then in terms of valuation, I think when we look at those assets, would it be helpful to have some idea of the valuation? I mean for this committee's oversight purposes, looking at the various tiers and where they're valued, we might say, well, can you prioritize this set of them, because it has much more productive value to the taxpayer.

Mr. PECK. We will be happy to. We will be inviting you to an incredibly stultifying debate about whether we should value things on their fair market value, replacement value, all those kinds of things, but we can get you those numbers, too.

Ms. EDWARDS. Thank you. And then I wonder if you can answer the question. Of the properties that you have some control over, the ones that where they may be located in some area that isn't the best market, but could provide some economic development opportunity locally, and might we engage in a different kind of process for those properties to encourage local economic development and growth, and jobs in places that are a little bit harder than some of our major metropolitan areas.

Mr. PECK. Well, I was referring, actually, to assets that are really pretty far from any kind of a metropolitan center, or almost any kind of a population base, but assets that are located near a community, we already do have the authority and use it pretty successfully, often, to give properties for free to local entities for either public purposes, public safety, health, education, or economic development uses, which communities can also get properties from us to undertake.

Ms. EDWARDS. Thank you. I know my time is expired, so I may have some other questions, if we are all just so doggone cold.

Chairman DENHAM. Well, that's one good thing about having an outside hearing in a cold location. They're quick hearings!

Mr. PRINCIPI. Right.

[Laughter.]

Chairman DENHAM. I just have one, final question. Mr. Principi obviously had some great successes with the Base Realignment and Closure Commission. Could such a commission be put in place for all of our properties, nationwide?

Mr. PRINCIPI. It could. I think it would be a very, very difficult process. I think BRAC works well for military bases in the sense that it's a combination of recommendations from the Department of Defense that have to be applied against criteria established by Congress. And I think the five backgrounds that we've had thus far have been able to reduce excess infrastructure and have the communities where those bases have been closed to be transferred to either other public agencies or to the private sector for redevelopment, and we've seen many, many success stories.

So it is an option that you certainly could consider, but it would be a massive undertaking, I believe, Mr. Chairman. But, certainly, it could be done.

Chairman DENHAM. The BRAC Commission, itself, was a tremendous undertaking, and yet you were able to have a plan, multiyear plan, with liquidation happening immediately.

Mr. PRINCIPI. Yes.

Chairman DENHAM. And we need that immediate liquidation today, so.

Mr. PRINCIPI. Well, that's right. By law, when a military base is closed, take the 2005 BRAC ground. There are a period of years in which that base has to be closed, and so there's no delay. By that time it has to be disposed of, sold or transferred to another agency of government.

Chairman DENHAM. Thank you. Thank you for your testimony. At this time, if there are no further questions from Members, I would ask for a unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any and all questions that have been submitted to them in writing, and unanimous consent that during such time as the record remains open, additional comments offered by individuals of this committee or groups may be included in the record of today's hearing.

Without objection, so ordered.

I would like to thank our witnesses again for their testimony in this cold environment; and, if no other Members have anything to add, the subcommittee stands adjourned.

[Whereupon, at 11:30 a.m., the subcommittee was adjourned.]

STATEMENT OF

ROBERT A. PECK

COMMISSIONER
PUBLIC BUILDINGS SERVICE
U.S. GENERAL SERVICES ADMINISTRATION

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT
U.S. HOUSE OF REPRESENTATIVES

"SITTING ON OUR ASSETS: CUTTING SPENDING AND PRIVATE REDEVELOPMENT OF UNDERPERFORMING BUILDINGS"

FEBRUARY 10, 2011

GSA

Good afternoon, Chairman Denham, Ranking Member Norton, and members of this Subcommittee. My name is Robert A. Peck, and I am the Commissioner of the U.S. General Services Administration's (GSA) Public Buildings Service (PBS). I am honored to join you here today at the Old Post Office, a fitting example of a redevelopment opportunity that this Administration is considering how best to transform a historic property that, in its current form, is configured inefficiently for government office use, and an annex pavilion that was a commercial failure, into an asset put to its best use.

This project is only one example of GSA's ability to effectively utilize our owned and leased building portfolio. GSA is a leader in government and outpaces the private sector in the asset management of our buildings and leases. We are also building on our successes with aggressive efforts to improve utilization, deliver new and innovative workplace strategies, and use new authorities to further partner with the private sector to benefit taxpayers.

GSA: the Federal Government's Asset Manager –

Since 2002, GSA has undertaken a major portfolio restructuring. We have disposed of 204 vacant or underutilized properties, totaling more than 9.5 million square feet, from the inventory. This represents a 5.3 percent reduction in GSA's owned portfolio and the elimination of almost $484 million in anticipated repair needs.

In June 2010, the President issued a memorandum, "Disposing of Unneeded Federal Real Estate," that ordered all Federal agencies to step up this effort. As part of this effort, GSA's Office of Real Property Utilization and Disposal has tripled the number of governmentwide assets classified as excess for disposal consideration and has set aggressive targets for disposals, on behalf of other Federal agencies, in FY11 and FY12 in support of the President's memorandum. Moving forward, GSA will continue to aggressively identify and target underutilized assets for disposal within the existing framework of authorities, from reviewing the potential for public benefit conveyances to environmental remediation under CERCLA as well as NEPA and Section 106 compliance.

When GSA gained the authority to retain sales proceeds in 2005, GSA's disposal actions returned almost $227 million in receipts to PBS's Federal Buildings Fund.[1] These funds have been reinvested into our portfolio to help maintain well functioning and welcoming buildings.

The Thaddeus J. Dulski Federal Office Building in Buffalo, NY represents a case study in an effective disposition. In 2005, PBS excessed this building, which had a high vacancy rate and a need for costly renovations. This underperforming asset was sold to a private developer in 2006 and produced $6 million for the Federal Buildings Fund. The building was renovated as a mixed-use hotel, commercial and residential property that has helped keep jobs in downtown Buffalo, while adding to the tax base for the city.

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[1] This figure includes revenue generated through use of all GSA disposal authorities. GSA has generated more than $150 million for the Federal Buildings Fund using Section 412 authority alone.

GSA has led Federal efforts to utilize government-owned space effectively. At the end of FY10, GSA's national vacancy rate for all owned and leased assets was 2.4 percent, significantly less than the national private sector rate of 16.7 percent. Additionally, less than 3 percent of GSA's portfolio has been classified as an under- or non-utilized asset, according to the 2009 Federal Real Property Profile.

When we find underutilized space in areas where there is a continuing Federal need, GSA works aggressively to renovate and reuse the asset to achieve greater utilization. One example of that is GSA's renovation of 50 United Nations Plaza in San Francisco. That renovation, funded by the American Recovery and Reinvestment Act (Recovery Act), will restore a historic property that is currently vacant. When the project is complete. it will house GSA's regional offices. That, in turn, will enable us to move the FBI and U.S. Courts out of currently leased space into federally-owned space in the Burton Federal Building, which will help us realize a long-run cost savings in our space portfolio.

Since our restructuring initiative began, we have also delivered a number of critical consolidation projects and completed more than 140 major modernization projects. These facilities provide more efficient workspace for tenant agencies.

The FDA Headquarters campus at the White Oak Federal Research Center in Maryland, which was previously a military base, is another example of an important Federal consolidation and redevelopment project. GSA is moving FDA from more than 40 dispersed and outmoded facilities into a new federal campus that will enhance FDA's ability to carry out its mission and increase the revenue stream into the Federal Buildings Fund. When complete, the campus will comprise almost 4 million square feet of offices and laboratories, housing more than 8,000 FDA employees. The presence of FDA on the White Oak campus is driving private sector economic development to create a larger science-based research and development sector in suburban Maryland.

The development of the DHS Headquarters campus at St. Elizabeths in Southeast Washington, D.C., is another critical consolidation and redevelopment project GSA is leading for the Federal government. This project, initiated through Recovery Act funds, enabled us to begin construction of the 4.5 million square foot campus that will consolidate DHS workers from more than 50 locations in the D.C. metropolitan area into one modern and efficient campus thereby saving taxpayers an estimated \$600 million[2] compared to the cost of leasing.

The Recovery Act allowed GSA the opportunity to invest in our inventory and begin many needed renovations. Another critical Recovery Act project, the modernization of GSA's headquarters at 1800 F Street, provides an example of taking an older asset in our portfolio and converting it into a modern and efficient workspace. With only a

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[2] \$600 million in savings represents the total amount in present value terms compared to the cost of leasing the same amount of space over 30 years

modest amount of expansion space, we intend to turn a building that previously served 2,000 personnel into a building that will serve 6,000.

Legislative Authorities for Disposal, Reinvestment, and Redevelopment –

Congress has played a critical role in our ability to more effectively utilize our space. GSA has successfully used our out-leasing authorities to improve the use of our properties. Section 111 of the National Historic Preservation Act allows us to out-lease underutilized historic Federal buildings, in whole or in part, to non-Federal tenants. Section 412, which Congress granted in the FY 2005 Consolidated Appropriations Act,[3] allows GSA to retain net proceeds from dispositions of its real and related personal property through sale, lease, exchange, or otherwise, including leaseback arrangements.

The sale of more than 50 acres of land at the Denver Federal Center in 2007 highlights GSA's use of this Section 412 authority to return millions of dollars for the Federal Buildings Fund. This negotiated sale also illustrates GSA's effective partnering with local communities to reposition surplus real property while encouraging development. GSA conveyed this property to the City of Lakewood as a site for relocation of the St. Anthony's Central Hospital. GSA sold another 15 acres in 2007 to the City to help facilitate a public, intermodal transportation terminal for bus and light rail and related transit-oriented development.

The John W. McCormack Post Office and Courthouse in Boston, Massachusetts showcases an innovative use of our authorities to ensure an historic building remained an active but modernized asset in GSA's inventory. In 1998, the Federal courts relocated to a new courthouse from the McCormack Courthouse, leaving a substantial vacancy. Given the building's age, the McCormack Courthouse faced significant reinvestment needs. Using the Section 111 authority, GSA temporarily leased the building to the Massachusetts State Trial Courts, a tenant with common courthouse functions. Doing so obviated the need for considerable build-out and maintained the viability of an historic asset. A decade later, following the end of the lease and the relocation of the State courts, GSA renovated the building for renewed Federal use, using a number of innovative sustainable building technologies and practices. To support the reinvestment cost, GSA worked with Federal agencies to relocate them from leased spaced into the newly renovated building, transforming the building into a high performing, financially sustainable asset.

Congress also has on occasion granted GSA special authority to adopt innovative, flexible arrangements for working with the private sector. For instance, GSA received authority to develop the Southeast Federal Center (SEFC) site in Washington, DC, through the *Southeast Federal Center Public-Private Development Act of 2000*[4]. By leveraging the private sector's creativity, experience, and resources, GSA achieved its goal of transforming the SEFC site into an asset where office workers, residents and

[3] P.L. 108-447 (2004).
[4] P.L. 106-407 (2000).

visitors can live and work. GSA helped transform this waterfront property into a unique mixture of office and other commercial space, residential homes, and public amenities, while retaining proceeds of more than $43 million.

GSA used its authority under Section 111 to lease the historic Tariff Building in Washington, DC, for use as a first-class hotel and restaurant, eliminating operating and maintenance costs while ensuring long-term stewardship and public access to this important historic building. The building, which served as the first headquarters of the Post Office Department, sat vacant for 15 years following the departure of the Tariff Commission in 1987, while the surrounding Penn Quarter neighborhood was largely dormant. GSA worked with private sector developers to transform the 161-year old building and help revitalize the Penn Quarter neighborhood, leasing the property to a private hotel company that reopened the Tariff Building in 2002 as the Hotel Monaco. The lease provided for privately funded restoration of ornamental spaces, replacement of all building systems, modification to bring the building up to current code requirements, and a positive net rental revenue over the 60-year lease.

Finally, we get to the project that brings us here today, the redevelopment of the Old Post Office. The Old Post Office presents a unique history. Federal funding for renovation was combined with a private sector out-lease in 1982 that provided for a ground floor and below-grade retail pavilion with $28 million in private funds for construction and leasehold improvements. The building re-opened in 1983 with a mix of Federal tenants and retail uses. This lease was amended in 1989 to provide for construction of the Annex, which was constructed with $1.75 million in Federal funds and $5.5 million from the private sector. Though intended for retail use, it was never fully tenanted and its potential was never fully realized. The Pavilion and the Annex were commercial failures, resulting in a default on the leasehold mortgage in 1993. After Collin Equities, an affiliate of Wells Fargo, bought the leasehold interest for $8.5 million at foreclosure, GSA paid Collin Equities $7.1 million to acquire the leasehold interest in 2001.

With direction provided by Congress in the *Old Post Office Building Redevelopment Act of 2008*,[5] and authority provided in Section 111, GSA is now able to leverage private sector real estate investment to reposition the Old Post Office as a viable asset, while preserving its historic integrity; putting the asset to its highest and best use, thereby providing a financial return to the Federal government; allowing for public access; and contributing to the vitality of Pennsylvania Avenue, the Federal Triangle, and the District of Columbia. We are examining the best approaches to redevelopment of the Old Post Office. We're working on what the right kind of Request for Proposals (RFP) would include, for example. It will be important to ensure that any proposed deal is in the best interest of the Federal taxpayer and that it limits the government's exposure to risk.

As we have pursued redevelopment, GSA has continued to maximize our returns and minimize our annual losses by fully utilizing the available office space and using our

[5] H.R. 5001.

authority under the Public Buildings Cooperative Use Act to lease the atrium's pavilion to house a food court and retailers.

Pursuing Innovative Solutions to Optimize Space and Reduce Costs –

Beyond our asset management strategies and existing authorities, GSA is leading the way to use space more effectively by breaking out of traditional office space configurations and providing tools and solutions that support a truly mobile workforce. During our headquarters building renovation, we have started using GSA's "swing space" as a laboratory for new technologies and solutions for alternative workplace arrangements, such as hotelling office space. We have also been studying best practices from other organizations throughout the United States and the world to learn how they effectively use space. Over the long-term, such practices hold great promise for enabling us to carry out government functions with much less office space per Federal employee.

GSA is partnering with Federal agencies to develop workspace solutions that create a flexible and mobile work environment. GSA is beginning to help agencies manage space utilization by offering guidance to reduce the amount of space required over time and increase Federal employee productivity. We are reinventing ourselves by changing from an organization that processes orders for space to creating agency partnerships that develop innovative options that enable agencies to use space more efficiently at a lower cost through the use of technology, sustainability, flexible office utilization, and a more mobile work environment.

In cooperation with the Office of Personnel Management, GSA is providing Federal managers with the tools necessary to build a mobile workforce. GSA is committed to leading the government and private industry in telework initiatives and is striving for 60 percent of all GSA employees to telework at least two days per pay period. This practice has the potential to create substantial savings both in real estate and operating costs

Working with other Federal Agencies –

GSA supports the Administration's goals of disposing of unneeded real property and reducing Federal spending by providing a variety of asset management and disposal services to other landholding Federal agencies. GSA assists agencies in developing asset management plans and strategies, in accordance with the President's June 2010 memorandum and Executive Order 13327, "Federal Real Property Asset Management," to improve asset utilization. GSA provides the resources, tools, and experience necessary to drive effective real estate decisions throughout the government.

Conclusion –

GSA is a leader in asset management, aggressively moving unneeded properties, effectively utilizing space, and pursuing new strategies that meet our obligation to taxpayers to house government's functions as efficiently and economically as reasonably possible. We are also taking advantage of our position in the Federal government to help drive better decision-making across partner agencies that will result in a sustainable and efficient government.

Redevelopment of the Old Post Office is a great example of how the Federal government can, in cooperation with the private sector, turn a commercial failure and a less-than-optimal office building into a facility that will more efficiently serve its community and produce a return on the investment for the Federal government.

I appreciate the opportunity to come here today and I welcome your questions.

WRITTEN TESTIMONY OF ANTHONY J. PRINCIPI BEFORE THE SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT.

FEBRUARY 10, 2011

Mr. Chairman and Members of the Subcommittee. My name is Anthony J. Principi and I am pleased to appear this morning to provide you with my views as to the management of underutilized and underperforming assets in the federal inventory. My testimony today on creating value from underperforming federal capital assets is based on my experiences as Deputy Secretary of the U.S. Department of Veterans Affairs from 1989 – 1992 and then as Secretary from 2001 -2005. I also have served as Chairman of the 2005 Defense Base Realignment and Closure Commission (BRAC). The Commission was responsible for recommending to the President and Congress the realignment and closure of military installations throughout the United States.

When I assumed my responsibilities at VA, VA was the federal government's second largest department being comprised of a nationwide system of health care facilities and services, benefits programs, and national cemeteries for America's 25-million living veterans and dependents. The Department was and is now also a major land holding agency, with an extensive and diverse portfolio of properties with over 33,800 acres of land, 5,500 buildings, 146,920,000 square feet at approximately 270 locations nationwide. This is in addition to over 1,442 spaces leased nationwide totaling over 15,500,000 square feet.

While VA is one of the largest direct providers of health care in the world, it had an aging infrastructure with an average age of buildings over 50 years and given the dramatic changes in VA health care delivery, there was a significant amount of space that either was underutilized or simply vacant. In order to address these challenges and in an effort to encourage significant operating cost reductions and savings, I asked Michael Simmons who then was a senior legal counsel at VA and Tony Kushnir, who I brought to VA from the Navy (both of whom are now in private practice), to develop an approach that can be used as an additional tool in VA's management of its infrastructure. That approach was ultimately enacted by Congress and has become known as enhanced-use leasing.

As developed, the enhanced-use leasing concept was designed to:

- encourage program and facility managers to view Agency property holdings as program resources and potential revenue centers;
- attract other public or private sector investment into Agency facilities through broad-based market-based opportunities rather than upon reliance upon federal appropriations and programs;
- place available Agency property into more productive uses;
- enable the Agency to acquire otherwise unaffordable services or facilities; and
- allow the Agency to realign its property holdings to reflect program requirements in a way that provides the greatest return to the Government.

What is Enhanced-Use Leasing and How Does it Create Value from Unproductive Assets?

Although the authority to enter into enhanced-use leases is currently limited to VA, DoD and NASA, this concept, if extended to other agencies has the potential of providing the same benefits to those agencies as it has to VA. Simply, enhanced-use leasing is a cooperative arrangement for the development of underutilized or vacant property by which:

- property is made available to a public or private entity through a long-term ground lease;
- the leased property may be developed for compatible non- federal and/or; federal uses, and
- in return for the ground lease, the Federal Agency obtains fair consideration which could be in the form of money, facilities, space, services, or other "in-kind" consideration.

Originally enacted in the fall of 1991, VA's enhanced-use leasing authority is now codified at Section 8161 through Section 8169 of title 38, United States Code. The technical elements of this authority are:

- the term of the ground lease may be up to 75 years;
- the site to be leased must be controlled by the Secretary;
- all uses must be consistent with and not adversely affect the mission of the Department;
- VA may use its "minor" construction funds (now up to $10 million) as a capital contribution in connection with an enhanced-use lease;
- VA may purchase services, space or facilities in connection with an enhanced-use lease.
- VA must hold a public hearing at the location of any proposed enhanced-use lease to obtain veteran and local community input
- VA must provide notice to its congressional oversight committees prior to entering into an enhanced-use lease.

One of the major elements of the enhanced-use leasing authority is that unlike traditional federal leasing authorities in which generated proceeds must be deposited into a general treasury account, the enhanced-use leasing authority provides that all proceeds (less any costs that can be reimbursed) are returned to an appropriate agency mission. The ability to recycle proceeds creates an economic incentive for the agency and its property managers to fully utilize their existing capital assets and to begin to view these assets as potential resources to fund needed programs or facility requirements. To underscore Congress' intent to provide the agency with sufficient latitude to undertake and practice asset management, the authority must addresses several key legal issues commonly identified as critical to successful public/private transactions by:

- providing the Agency with the ability to enter into long-term agreements so as to enable the private sector with a degree of comfort that it should be able to amortize its capital investments;
- clarifying the ability of the Agency to undertake this authority from the myriad of other substantive and procedural laws relating to government procurement, management and disposal of property or services;
- enabling the Agency to enter into these agreements in a timely fashion to address market demands;
- providing the Agency with the flexibility to address a broad spectrum of market and financial conditions to address specific project requirements so long as the activity is within established statutory requirements and Agency mission.

Finally, central to the enhanced-use leasing authority is its close coordination with and reliance upon the local government and community as full partners in the development process. There are two aspects to this participation. First, in order to maximize project efficiencies and minimize development costs, the Agency must rely, to the greatest extent possible, upon local building codes, safety requirements, construction standards and local government inspection services as they pertain to any non-Agency development. If the project involves direct Agency control over the management and operation of a facility, the project is considered in the context of applicable Agency standards. In such instances, Agency requirements are reviewed in the context of how such standards integrate with applicable local codes and standards.

The second, and perhaps the more important reason why enhanced-use leasing stresses local government and local community involvement is to assure that the development is integrated in the local planning and development process. Close integration would enable the Agency to spot any potential community concerns (scope and intensity of the development, traffic impacts, business impacts, etc.) and to address those issues early on in the planning and development process.

What types of projects have worked and why?

Obviously, sound development economics are the foundation of enhanced-use projects. But some factors within an Agency's control can contribute to the likelihood of success.

Enhanced-use leasing worked best when the Agency's requirements were defined in private sector terms. For example: a VA administrative office building is not significantly different from a commercial office building. During my tenure at VA, among the various other projects undertaken, three major office buildings along with parking facilities were developed on VA campuses pursuant to the enhanced use leasing authority. These were the VBA Regional Office at Salt Lake City, Utah; the VBA Regional Office in Chicago, IL and the VBA Regional Office Building in Milwaukee. These transactions followed an earlier developed VBA Regional Office building at the VA Medical Center in Atlanta, GA. All four of these office building were privately financed, developed, and operated on what was vacant land and are now being used as Regional Office Buildings for VA's Veteran Benefits Program. Prior to moving into these facilities, the Regional Offices occupied space in GSA and privately owned buildings in downtown locations and remote from the VA Medical Center campus. Through enhanced use leasing, VA was able to lease vacant land on its medical center campus to local developers who in turn developed the property and leased the facilities back to VA. In each instance, in addition to the program benefit of having VA Regional Offices collocated on VA Medical Center campus and thus allowing "one-stop shopping" for veterans obtaining medical care, VA was able achieve significant cost savings in its lease-back of the office buildings as compared to all other alternatives including new construction or leasing off campus. I should note that the leasing commitments made by VA in each such transaction were no more than found in a standard GSA operating lease.

Based on our experiences, I believe that VA was able to achieve these significant savings in acquisition cost because while federal appropriations offer the lowest cost financing for federal construction, the structure of the VA transactions allowed the private sector to bring the full force of the efficiencies offered in the private sector, these being:

- Federal construction is designed and constructed on for the specific facility being sought. Private development relies upon building standards and design criteria that has been used repeatedly and "honed" in millions of applications by building industry, resulting in a larger market base in all aspects of the industry (e.g., architects, construction contractors, trade contractors). This factor has a significant down-ward impact on pricing and on the time of construction.

- Since VA's lease of the buildings was based on a GSA operating lease, the financial sector was is familiar with the commitment and treated the lease as a high investment grade transaction allowing the developer to keep its financing cost at a minimum and significantly below the cost normally found in commercial transactions.

Further, the VA transactions were structured so that the federal commitment to lease the facility was a completely separate transaction from the underlying ground lease. The ground lease, in turn, was negotiated to have a term in the range of 35 – 50 years depending on the amount of investment. As such, while VA could not subordinate the Government's fee interest in the property, there ground lease was of sufficient term so as to be comparable to similar ground leases in the commercial real estate market, thus allowing the developer/ground lessee the ability to secure financing.

In as the private facility was constructed on an underlying ground lease, the title to the facility passed to the federal government upon expiration of the ground lease by operation of law. This structure offered two distinct benefits. First, in as the facility would ultimately become VA property by operation of law, there was no need for VA to negotiate or buy purchase options from the facility owner which kept VA costs at a minimum. Second, VA was able to capture the residual value of the building and thus unlike a pure government space lease scenario, the transaction left VA with an asset of value rather than with a file of rent receipts. I should note that in these transactions, the developer was required to fund and maintain over the term of the ground lease and facility lease a "funded maintenance reserve" to assure that the facility was properly maintained and refreshed while on VA property.

This structure and approach was successfully applied in the energy area as well where vacant VA property was leased on a long-term basis for the development of an energy plant that would generate electricity and in many instances steam and chilled water not only for use at the host VA Medical Center but to adjacent users and to the public utility. VA undertook four of these projects with much success with savings reported to its Congressional oversight committees in the scores of millions of dollars. In addition to the efficiencies noted in my discussion regarding office space, these energy centers generated revenues and off-set energy costs charged to VA.

While the enhanced use leasing authority can be effectively used to manage federal property in a manner to acquire required facilities or services at lower costs, the authority was not defined simply by that application. It also serves as a portfolio management authority. A good example is the Chicago Lakeside enhanced use lease. Using this authority, VA was able undertake and implement a much needed realignment of two underperforming VA Medical Centers in metropolitan Chicago. One VA Medical Center was an aging, high-rise facility located on in the heart of Chicago's "Gold Coast." It was expensive to operate and ill served a veteran patient base that had moved away from downtown and toward Chicago's suburbs. In 2005, VA signed a 75-year ground lease with Northwestern Memorial Hospital for the land underlying the VA facility and received \$28M at execution with another \$22M upon disposal of the facility to Northwestern, which was also allowed in the enhanced use leasing authority. The enhanced use lease did provide for the establishment of a correct sized, cost-efficient, outpatient VA clinic on the Lakeside site to service veterans in the community. Pursuant to the enhanced use leasing authority, the funds received by VA were used to off-set VA's costs in the construction of a new bed tower at the neighboring VA Medical Center.

The point here is that underperforming assets must be viewed in the overall context of the agency's programs and resources. Through the enhanced use leasing authority, VA had the ability to unlock the value of Lakeside and use that value to improve services to eligible veterans. It did so by allowing VA to offset the cost of implementing its realignment of resources and avoid the future cost of investing VA's limited capital funds into aging health care facilities while also assuring the continuation of quality health care for Chicago area veterans.

During my tenure as Chairman of the BRAC, I was able to observe that the military services were in the process of implementing a then recent change in the law which authorized enhanced use leasing transactions. Today, all of the military services have active enhanced use leasing programs which look to maximize value of their underutilized, non-excess property.

Lessons Learned

I believe there are several key points to be made relative to developing a successful approach in maximizing value from underperforming assets. The single most important is that Agencies should have the ability to use best practices in managing their assets and resources, be it by the transfer of excess property to other Agencies who have requirements for such property, the disposal of surplus property, or entering into arrangements such as enhanced use leasing with other entities in the public or the private sectors. This authority must provide sufficient flexibility to allow the Agency to be innovative in its approach to secure private investment into its facilities. While preserving the integrity of governmental processes, that Agency's implementation procedures must be tempered so as to be responsive to the broad span of market, environmental, political, and legal issues that arise in any development of property. The Agency's officials involved in the process must be committed to the effort's success, and while attempting to be responsive to the legitimate demands of the private sector. Finally, the Agency must structure each transaction in a manner that will mitigate or minimize future appropriations and federal commitments so as to avoid encumbering future operational funds and thus reducing the availability of those funds in the long-term for needed activities.

Thank you for your invitation and interest. I will be glad to respond to any questions that you or Members of the Subcommittee may have.

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Economic Development, Public Buildings and Emergency Management, Committee on Transportation and Infrastructure, House of Representative

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FEDERAL REAL PROPERTY

The Government Faces Challenges to Disposing of Unneeded Buildings

Statement of David J. Wise, Director
Physical Infrastructure Issues

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Accountability * Integrity * Reliability

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Highlights

Highlights of GAO-11-370T, a testimony before the Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives

Why GAO Did This Study

The federal real property portfolio, comprising over 900,000 buildings and structures and worth hundreds of billions of dollars, presents management challenges. In January 2003, GAO designated the management of federal real property as a high-risk area in part due to the presence of unneeded property. The Office of Management and Budget (OMB) is responsible for reviewing agencies' progress on federal real property management. The General Services Administration (GSA), often referred to as the federal government's landlord, controls more square feet of buildings than any other civilian federal agency. GSA funds real property acquisition, operation, maintenance, and disposal through the rent it collects from tenant agencies that is deposited into the Federal Buildings Fund (FBF). This testimony discusses (1) the scope and costs of the excess real property held by GSA and other federal agencies; and (2) the challenges GSA and other federal agencies face in disposing of excess and underutilized real property. GAO analyzed GSA data from a centralized real property database, reviewed GSA real property plans and previous GAO reports, and interviewed GSA and OMB officials.

View GAO-11-370T or key components. For more information, contact David Wise at (202) 512-2834 or wised@gao.gov.

February 10, 2011

FEDERAL REAL PROPERTY:

The Government Faces Challenges to Disposing of Unneeded Buildings

What GAO Found

The federal government holds many excess and underutilized properties that cost billions of dollars annually to operate. Excess properties are buildings that agencies have identified as having no further program use, and underutilized properties serve a program purpose that could be satisfied with only a portion of the property. In fiscal year 2009, 24 federal agencies including the Department of Defense reported 45,190 underutilized buildings that cost $1.66 billion annually to operate. GSA specifically holds 282 excess or otherwise underutilized buildings that cost $93 million annually to operate. Underutilized buildings represent the first places to look for possible consolidations that could, in turn, allow GSA to dispose of additional properties. Excess and underutilized properties erode the viability of FBF by forcing GSA to pay for buildings for which it gets no return. The viability of FBF is essential to ensuring that GSA is able to respond to changing government real estate needs over the coming years and make sound investment decisions. A June 2010 Presidential Memorandum continued government efforts to dispose of unneeded properties by establishing a new governmentwide target of $3 billion savings through disposals and other methods by the end of fiscal year 2012.

The problem of excess and underutilized property is exacerbated by a number of factors that impede the government's ability to efficiently dispose of unneeded property. First, numerous stakeholders, including local governments, private real estate interests, and advocacy groups, have an interest in how the federal government carries out its real property acquisition, management, and disposal practices. These competing interests, that often view government buildings as the physical face of the federal government in local communities, can build barriers to property disposal. In 2007, GAO recommended that OMB develop an action plan to address the effects of stakeholder interests but it has yet to be implemented. Second, the complex legal environment has a significant impact on real property decisionmaking and may not lead to economically rational outcomes. GSA's ability to effectively dispose of its unneeded property can also be hampered by its lengthy disposal process, which is legislatively mandated and includes requirements, such as determining whether the property can be used by other federal agencies, for homeless assistance, and for the public benefit. For example, GSA continues to hold numerous buildings that have been listed as excess for years. The lengthy disposal process may inhibit GSA's ability to achieve cost savings under the Presidential Memorandum by the 2012 deadline.

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to testify today on our work related to federal real property and in particular, the issue of excess and underutilized property held by the General Services Administration (GSA) and other agencies. As you know, since 1990, we have periodically reported on government operations that we identify as "high risk." In January 2003, we designated the management of federal real property as a high-risk area, in part because of excess and underutilized property. Other reasons included over-reliance on leasing and the challenges associated with protecting government assets from terrorism. Later this month, we plan to issue an update on the status of these issues as part of our update to the high-risk series. My testimony today will discuss (1) the scope and costs of excess and underutilized real property held by GSA and other federal agencies; and (2) the challenges GSA and other federal agencies face in disposing of excess and underutilized real property. To address these objectives, we analyzed GSA data from the Federal Real Property Profile, a centralized real property database, for fiscal year 2009. We determined the data were sufficiently reliable for our purposes through data testing and interviews with government officials responsible for submitting and maintaining the data. We also reviewed GSA real property plans and previous GAO reports, and interviewed GSA and Office of Management and Budget (OMB) officials. We performed this work from June 2010 to February 2011 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

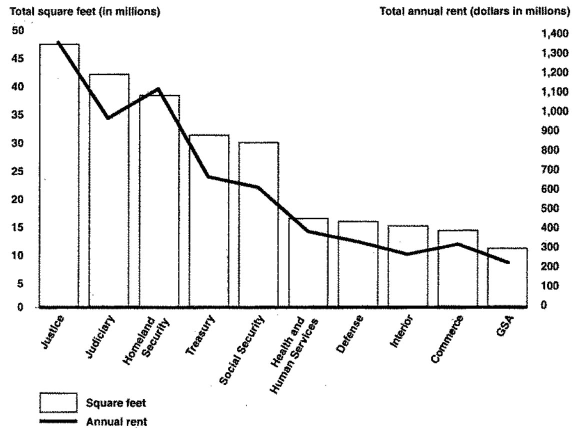
The federal government's real property portfolio presents significant management challenges and, in many cases, reflects an infrastructure based on the business model and technological environment of the 1950s. In identifying governmentwide real property management as a high risk issue, we found that many government real property assets are no longer effectively aligned with, or are responsive to, agencies' changing missions. As a result, many are no longer needed. These can include excess properties, which agencies have identified as having no further program use, and underutilized properties, which serve a program purpose that could be satisfied with only a portion of the property. [1] As we have previously reported, excess and underutilized properties present significant risks to federal agencies because they are costly to maintain and could be put to more cost-beneficial uses or sold to generate revenue for the government.

The federal real property portfolio includes buildings used as offices, warehouses, schools, laboratories, hospitals, and family housing and land. Over 30 federal agencies control real property assets—including both facilities and land—in the United States and abroad. In fiscal year 2009, the federal inventory included over 3 billion square feet of building space and over 900,000 buildings and structures that are worth hundreds of billions of dollars. Approximately 83 percent of federally occupied space is owned by the federal government, while the remaining amount is leased or otherwise managed.

GSA, often referred to as the federal government's landlord, controls more square feet of buildings—most of which it leases to other federal agencies and entities—than any other civilian federal agency. Figure 1 illustrates GSA's ten largest tenants by rent, ranked by total square feet.

[1] Utilization is obtained by calculating a ratio of occupancy to current design capacity. An office is considered underutilized if this ratio is less than 75 percent. A warehouse is considered underutilized if this ratio is less than 50 percent.

Figure 1: Top 10 GSA Tenants by Rent, Ranked by Total Square Feet



Source: GSA.

GSA provides a range of real estate services to its tenant agencies, including acquisition, operations, maintenance, and disposal of property which it finances through a revolving fund called the Federal Buildings Fund (FBF). GSA deposits the rent it collects from tenant agencies into FBF, which it then proposes to spend as part of the President's annual budget request to Congress. In fiscal year 2009, GSA collected over $8.5 billion in rent, of which almost three quarters came from its 10 largest tenants. In 2005, GSA received the authority to deposit the net proceeds for its property dispositions directly into FBF.[2] The disposal of 133 GSA-controlled properties from fiscal years 2005 through 2009 generated almost $200 million in net proceeds for FBF.

[2]Section 412 of P.L. No. 108-447, 118 Stat. 2809, 3529 (2004).

The Government Has Many Excess and Underutilized Buildings, Costing Billions to Operate

In fiscal year 2009, agencies reported 45,190 underutilized buildings with a total of 341 million square feet, an increase of 1,830 such buildings from the previous fiscal year. These underutilized buildings accounted for $1.66 billion in annual operating costs. These totals include buildings reported by 24 agencies, the largest of which is the Department of Defense.[3] Underutilized buildings represent the first places to look for possible consolidations that could, in turn, allow agencies to dispose of such properties.

GSA also has many properties it no longer needs. In fiscal year 2009 (the most recent year for which data are available), GSA reported having 282 excess or otherwise underutilized buildings. These buildings, which include offices and warehouses, cost about $93 million a year to operate. They encompass about 18 million square feet and are located in 43 states and the District of Columbia. Approximately 70 percent of these properties are federally owned which GSA controls and the rest are leased from private owners. For example, GSA's excess properties include an office and warehouse complex, covering about 1 million square feet in Fort Worth, Texas. GSA spent about $1.3 million in fiscal year 2009 to operate this complex. According to GSA officials, these properties are planned for public sale in spring 2011.

Excess and underutilized properties erode FBF, potentially threatening its financial viability. GSA funds maintenance and repair costs to operate excess facilities from FBF. It must then pay to operate and maintain unneeded buildings without gaining tenant rent in return to cover these expenses. The viability of FBF is essential to ensuring that GSA is able to respond to changing government real estate needs over the coming years and make sound investment decisions.

The administration recently built upon the previous administration's focus on the need to dispose of unneeded properties throughout the government. In a June 2010 Presidential Memorandum to federal agencies, the administration stated that the federal government, as the largest property owner and energy user in the United States, wastes both taxpayer dollars and energy resources to maintain unneeded real estate. The memo established a new target of saving $3 billion governmentwide through disposals and other methods by the end of fiscal year 2012. The memo

[3]The Department of Defense accounted for 64% of the total building square feet held by these 24 agencies in fiscal year 2009.

directed that these cost savings be derived from increased proceeds from the sale of assets and reduced operating, maintenance, and energy expenses from disposals or other space consolidation efforts, including leases that are ended.

Challenges Impede the Disposal of Excess Real Property

As we have previously reported, the problem of excess and underutilized property is exacerbated by a number of factors that impede the government's ability to efficiently dispose of unneeded property.[4] For example, numerous stakeholders have an interest in how the federal government carries out its real property acquisition, management, and disposal practices. These include local governments; business interests in the communities where the assets are located; private sector construction and leasing firms; historic preservation organizations; various advocacy groups for citizens that benefit from or use federal programs; and the public in general, which often view the facilities as the physical face of the federal government in local communities. These competing stakeholder interests can build barriers to real property disposals. In 2007 we recommended that OMB, which is responsible for reviewing agencies' progress on federal real property management, could assist agencies by developing an action plan to address key problems associated with unneeded real property, including reducing the effect of stakeholder interests in real property decisions.[5] OMB agreed with the recommendation but has yet to implement it. OMB officials said they are unsure how to reduce the impact of stakeholder influence on real property decisions.

The complex legal environment also has a significant impact on real property decisionmaking and may not lead to economically rational outcomes. Not all agencies are authorized to retain proceeds from property sales. In addition, federal agencies are required by law to assess and pay for any environmental cleanup that may be needed before disposing of a property—a process that may require years of study and result in significant costs. In some cases, the cost of the environment cleanup may exceed the costs of continuing to maintain the excess property in a shut-down status. We have also noted that the National

[4]GAO, *Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform*, GAO-07-349 (Washington, D.C.; April 2007).

[5]GAO-07-349.

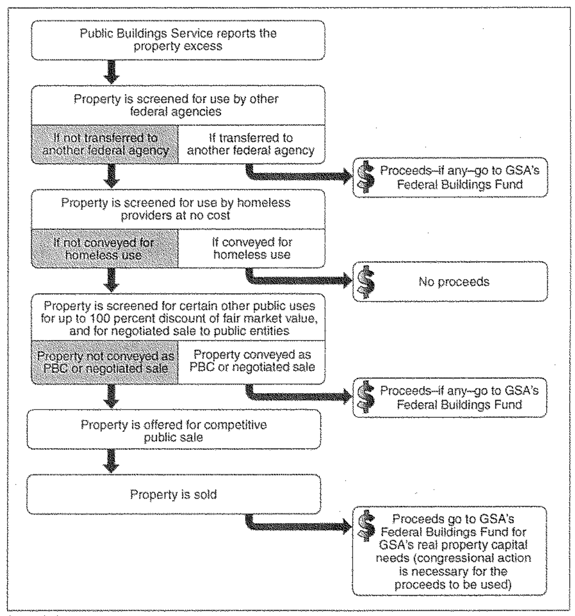
Historic Preservation Act, as amended, requires agencies to manage historic properties under their control and jurisdiction and to consider the effects of their actions on historic preservation.[6] The issue of historic preservation will become of critical importance to GSA since properties more than 50 years old are eligible for historic designation and GSA's portfolio has an average age of 46 years.

GSA's ability to effectively dispose of its unneeded property can also be hampered by its lengthy disposal process, which is legislatively mandated (see Fig. 2). This process includes screening other federal agencies for possible continued federal need. In addition, GSA has the authority to retain the net proceeds from the sale of real property but must, before offering property for sale, follow requirements under Title 40 of the United States Code and the McKinney-Vento Homeless Assistance Act.[7] Some of these steps many result in the property being disposed of with no proceeds. For example, under the public benefit conveyance program, state or local governments and certain tax exempt nonprofit organizations can obtain surplus real property for public uses such as homeless centers, educational facilities, or fire or police training centers. These steps in the disposal process serve as opportunities for stakeholder input and invite opportunities for stakeholder conflicts, such as conflicting views from local community groups for how best to use excess properties.

[6]16 U.S.C. § 470 et seq.

[7]U.S.C. § 11411.

Figure 2: GSA's Legislatively Mandated Process for Selling Excess Property



Source: GAO.

The fact that GSA's underutilized or excess properties, even those slated for disposal, may remain in GSA's possession for years, provides further evidence of GSA's difficulties in this area. For example, we previously reported on a GSA-created list of vacant and underutilized GSA properties as of October 1, 2002, including some which GSA had initiated actions for disposal.[8] These properties slated for disposal included a collection of federal building properties at one location in Alameda, California, and 6 federal buildings in Kansas City, Missouri. At the time, the properties in Kansas City were entirely vacant. In fiscal year 2009, GSA reported that the agency owned excess properties at these same locations totaling about 646,000 square feet and costing a total of around $182,000 annually to operate. While GSA has attempted to dispose of these excess properties, the agency has had to continue to maintain the properties over the past 7 years. The lengthy disposal process may therefore limit GSA's ability to achieve cost savings under the Presidential Memorandum. GSA officials said they are unlikely to have enough time to identify additional properties for disposal, complete the disposals, and achieve the cost savings by the 2012 deadline included in the Presidential Memorandum. Instead, officials said that they will have to rely on cost savings achieved from previously planned disposals in the "pipeline" and through other sources of savings, such as improvements in energy efficiency.

In closing, the government has many excess and underutilized properties that cost billions of dollars each year to maintain. Despite efforts to reduce this inventory, multiple obstacles remain that preclude quick and easy solutions. Until these obstacles are overcome, this issue will remain high risk.

Thank you, Mr. Chairman, that concludes my statement. I will be pleased to answer any questions that you or other Members of the Subcommittee may have at this time.

For further information on this testimony, please contact David Wise at (202) 512-2834 or wised@gao.gov. Contact points for our Congressional Relations and Public Affairs offices may be found on the last page of this statement. Individuals making key contributions to this testimony were Keith Cunningham, Assistant Director; Lynnelle Evans; Colin Fallon; Erik Kjeldgaard; Emily Larson; Susan Michal-Smith; Minette Richardson; and Swati Thomas.

[8]GAO, *Federal Real Property: Vacant and Underutilized Properties at GSA, VA, and USPS*, GAO-03-747 (Washington, D.C.; Aug. 2003). This list also included some of the properties in Forth Worth previously mentioned.

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GAO Answer to the Question for the Record from the Economic Development, Public Buildings and Emergency Management Subcommittee hearing "Sitting on Our Assets: Cutting Spending and Private Redevelopment of Underperforming Buildings" held on February 10, 2011

What obstacles exist to OMB creating an action plan for disposing of surplus government properties?

The complex legal environment related to the disposal of excess real property has a significant impact on real property decision-making and challenges the Office of Management and Budget's ability to create an action plan for quickly disposing of unneeded federal real property. This complex legal environment affects the entities that have opportunities to obtain the property, the amount of time it takes to dispose of the property, and the costs and/or income the property generates for the disposing agency.[1]

The federal government's ability to effectively dispose of and generate income from unneeded property can be hampered by its lengthy disposal processes, which is required by law. Authorities are agency-specific and include different provisions. Generally speaking, when a federal agency no longer needs a property to carry out its mission responsibilities, the property is reported as excess and is offered to other federal agencies for use. If another federal agency does not have a need for the property, it is considered surplus to the federal government. Pursuant to the McKinney-Vento Homeless Assistance Act, the Department of Housing and Urban Development then reviews the property to determine if it is suitable for homeless use. If the property is considered suitable for homeless use, it is first made available at no cost for homeless use to state or local governments and certain tax-exempt nonprofit organizations for 60 days. If the property is not considered suitable or if there is no interest in the property, it becomes available for other public benefit uses through the public benefit conveyance program. In the public benefit conveyance program, state or local governments and certain tax-exempt nonprofit

[1] See related reports. GAO, *Federal Real Property: The Government Faces Challenges to Disposing of Unneeded Buildings*, GAO-11-370T (Washington, D.C.: February 10, 2011). GAO, *Federal Real Property: Authorities and Actions Regarding Enhanced Use Leases and Sale of Unneeded Real Property*, GAO-09-283R (Washington, D.C.: February 17, 2009). GAO, *Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform*, GAO-07-349 (April 13, 2007)

organizations can obtain the property at a discount or no cost for an approved public benefit use, such as education or parks and recreation.

In addition, the National Historic Preservation Act, as amended, requires agencies to manage historic properties under their control and jurisdiction and to consider the effects of their actions on historic preservation. The issue of historic preservation will become of critical importance to GSA, for example, since properties more than 50 years old are eligible for historic designation and GSA's portfolio has an average age of 46 years.

In addition, federal agencies are required by law to assess and pay for any environmental cleanup that may be needed before disposing of a property—a process that may require years of study and result in significant costs. In some cases, the cost of the environmental cleanup may exceed the costs of continuing to maintain the excess property in a shut-down status.