

EXCESS FEDERAL BUILDING AND PROPERTY DISPOSAL
ACT OF 2011

FEBRUARY 27, 2012.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. ISSA, from the Committee on Oversight and Government
Reform, submitted the following

R E P O R T

[To accompany H.R. 665]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 665) to establish a pilot program for the
expedited disposal of Federal real property, having considered the
same, report favorably thereon with an amendment and recom-
mend that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Excess Federal Building and Property Disposal Act
of 2011”.

SEC. 2. FEDERAL REAL PROPERTY DISPOSAL PILOT PROGRAM.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY**“§ 621. Federal real property disposal pilot program**

“(a) IN GENERAL.—The Administrator of General Services (in this subchapter referred to as the ‘Administrator’), in consultation with the Director of the Office of Management and Budget (in this subchapter referred to as the ‘Director’), shall conduct a pilot program to be known as the ‘Federal Real Property Disposal Pilot Program’, under which the Administrator, in consultation with the Director, shall determine which 15 Federal Government real properties that are excess or surplus and have the highest fair market value and the greatest potential to sell and shall dispose of such properties in accordance with this subchapter and through an expedited disposal of real property.

“(b) DISPOSAL.—During the five-year period beginning on the date of the enactment of the Excess Federal Building and Property Disposal Act of 2011, the Administrator, in consultation with the Director, shall dispose of real property under the Federal Real Property Disposal Pilot Program through a public auction.

“(c) ADDING PROPERTIES TO THE PILOT PROGRAM.—Not later than 15 days after a property is disposed of under subsection (b), the Administrator, in consultation with the Director, shall designate an additional property, in accordance with subsection (a), to be disposed of under the Federal Real Property Disposal Pilot Program.

“(d) EXCEPTIONS.—The Administrator shall not include for purposes of the Federal Real Property Pilot Program any of the following types of property:

“(1) A parcel of real property, building, or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

“(2) Properties that are excluded for reasons of national security by the Director of the Office of Management and Budget.

“(3) Indian and Native Eskimo properties including—

“(A) any property within the limits of any Indian reservation to which the United States owns title for the benefit of an Indian tribe; and

“(B) any property title which is held in trust by the United States for the benefit of any Indian tribe or individual or held by an Indian tribe or individual subject to restriction by the United States against alienation.

“(4) Properties operated and maintained by the Tennessee Valley Authority pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.).

“(5) Postal properties owned by the United States Postal Service.

“(6) Properties used in connection with river, harbor, flood control, reclamation, or power projects.

“(7) Properties that the Administrator has determined are suitable for assignment to the Secretary of the Interior for transfer to a State, a political subdivision or instrumentality of a State, or a municipality for use as a public park or recreation area under section 550(e) of this title. In making such determination, the Administrator may consider the appraised value of the property and the highest and best use.

“(e) GAO REPORT.—Not later than 24 months after the date of the enactment of this subchapter, the Comptroller General of the United States shall submit to Congress and make publicly available a study of the effectiveness of the Federal Real Property Pilot Program.

“(f) TERMINATION.—The Federal Real Property Disposal Pilot Program shall terminate on the date that is five years after the date of the enactment of the Excess Federal Building and Property Disposal Act of 2011.

“§ 622. Selection of real properties

“The head of each executive agency shall recommend properties to the Director for disposal under the Federal Real Property Pilot Program. The Director, in consultation with the Administrator, shall then select properties for disposal under the pilot program and notify the recommending executive agency accordingly.

“§ 623. Expedited disposal requirements

“(a) EXPEDITED DISPOSAL OF REAL PROPERTY DEFINED.—For purposes of this subchapter, an ‘expedited disposal of real property’ is the sale of real property for cash that is conducted pursuant to the requirements of section 545(a) of this title.

“(b) FAIR MARKET VALUE REQUIREMENT.—Real property sold under the Federal Real Property Pilot Program may not be sold at less than the fair market value as determined by the Administrator, in consultation with the Director. Costs associated

with disposal may not exceed the fair market value of the property unless the Director approves incurring such costs.

“(c) **MONETARY PROCEEDS REQUIREMENT.**—Real property shall be sold under the Federal Real Property Pilot Program only if the property will generate monetary proceeds to the Federal Government, as provided in subsection (b). A disposal of real property under the Federal Real Property Pilot Program may not include any exchange, trade, transfer, acquisition of like-kind property, or other non-cash transaction as part of the disposal.

“(d) **RULE OF CONSTRUCTION.**—Nothing in this subchapter shall be construed as terminating or in any way limiting authorities that are otherwise available to agencies under other provisions of law to dispose of Federal real property, except as provided in subsection (e).

“(e) **EXEMPTION FROM CERTAIN REQUIREMENTS.**—Any expedited disposal of a real property conducted under this subchapter shall not be subject to—

“(1) subchapter IV of this chapter;

“(2) sections 550 and 553 of this title;

“(3) section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);

“(4) any other provision of law authorizing the no-cost conveyance of real property owned by the Federal Government; or

“(5) any congressional notification requirement other than that in section 545 of this title.

“§ 624. Special rules for deposit and use of proceeds from expedited disposals

“(a) **REIMBURSEMENT.**—

“(1) **EXECUTIVE AGENCY.**—An executive agency that conducts an expedited disposal of real property under this subchapter shall be reimbursed from the proceeds of such disposal for the administrative expenses associated with such disposal.

“(2) **GENERAL SERVICES ADMINISTRATION.**—The General Services Administration shall be reimbursed the expenses of an expedited disposal of real property under this subchapter on behalf of an executive agency from the proceeds of such disposal.

“(3) **OFFSETTING COLLECTIONS.**—The amounts described in paragraphs (1) and (2) will be credited as offsetting collections to the account that incurred such expenses, to remain available until expended without further appropriations.

“(b) **DISTRIBUTION OF PROCEEDS.**—After payment of the expenses described in subsection (a), the balance of the proceeds shall be distributed as follows:

“(1) Ninety-eight percent shall be deposited into the General Fund of the Treasury.

“(2) Two percent shall hereby be made available until expended to fund the grant program under section 625.

“§ 625. Homeless assistance grants

“(a) **GRANT AUTHORITY.**—To the extent amounts are made available pursuant to section 624(b)(2) for use under this section, the Secretary of Housing and Urban Development shall make grants to eligible private nonprofit organizations under subsection (b) to purchase property suitable for use to assist the homeless as provided in subsection (c).

“(b) **ELIGIBLE GRANTEEES.**—To be eligible to receive a grant under subsection (a), a private nonprofit organization shall be a representative of the homeless, as such term is defined in section 501(i)(4) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(4)).

“(c) **USE OF PROPERTIES FOR HOUSING OR SHELTER FOR THE HOMELESS.**—

“(1) **ELIGIBLE USES.**—A nonprofit organization that receives a grant under subsection (a) shall use the amounts received under such grant only to acquire or rehabilitate real property for use to provide permanent housing (as such term is defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360)), transitional housing (as such term is defined in such section 401), or temporary shelter, for persons who are homeless.

“(2) **TERM OF USE.**—The Secretary of Housing and Urban Development may not make a grant under subsection (a) to a private nonprofit organization unless the organization provides the Secretary with such assurances as the Secretary determines necessary to ensure that any property acquired or rehabilitated using the amounts received under such grant is used only as provided in paragraph (1) of this subsection for a period of not fewer than 15 years.

“(d) **PREFERENCE.**—In awarding grants under subsection (a), the Secretary of Housing and Urban Development shall give preference for such grants to private nonprofit organizations that operate within areas in which Federal real property is

being sold under the Federal Real Property Disposal Pilot Program under this subchapter.

“(e) NONPROFIT ORGANIZATION.—For purposes of this section, the following definitions shall apply:

“(1) HOMELESS.—The term ‘homeless’ has the meaning given such term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)), except that subsection (c) of such section shall not apply for purposes of this section.

“(2) PRIVATE NONPROFIT ORGANIZATION.—The term ‘private nonprofit organization’ has the meaning given such term in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).

“(f) REGULATIONS.—The Secretary of Housing and Urban Development may issue any regulations necessary to carry out this section.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

“621. Federal real property disposal pilot program.

“622. Selection of real properties.

“623. Expedited disposal requirements.

“624. Special rules for deposit and use of proceeds from expedited disposals.

“625. Homeless assistance grants.”

SEC. 3. DUTIES OF THE GENERAL SERVICES ADMINISTRATION AND EXECUTIVE AGENCIES.

(a) IN GENERAL.—Section 524 of title 40, United States Code, is amended to read as follows:

“§ 524. Duties of the General Services Administration and executive agencies

“(a) DUTIES OF THE GENERAL SERVICES ADMINISTRATION.—

“(1) GUIDANCE.—Not later than 6 months after the date of the enactment of this section, and when necessary thereafter, the Administrator of General Services shall issue guidance for the development and implementation of executive agency real property plans. Such guidance shall include recommendations on—

“(A) how to identify excess properties;

“(B) how to evaluate the costs and benefits associated with disposing of real property;

“(C) how to prioritize disposal decisions based on agency missions and anticipated future need for holdings; and

“(D) how best to dispose of those properties identified as excess to meet the needs of the agency.

“(2) ASSISTANCE.—The Administrator shall assist executive agencies in the identification and disposal of excess real property.

“(b) DUTIES OF EXECUTIVE AGENCIES.—

“(1) IN GENERAL.—Each executive agency shall—

“(A) maintain adequate inventory controls and accountability systems for property under its control;

“(B) continuously survey property under its control to identify excess property;

“(C) promptly report excess property to the Administrator;

“(D) perform the care and handling of excess property; and

“(E) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

“(2) SPECIFIC REQUIREMENTS WITH RESPECT TO REAL PROPERTY.—With respect to real property, each executive agency shall—

“(A) develop and implement a real property plan in order to identify properties to declare as excess using the guidance issued under subsection (a)(1);

“(B) identify and categorize all real property owned, leased, or otherwise managed by the agency;

“(C) establish adequate goals and incentives to reduce excess real property in such agency’s inventory; and

“(D) when appropriate, use the authorities in section 572(a)(2)(B) of this title in order to identify and prepare real property to be reported as excess.

“(3) ADDITIONAL REQUIREMENTS.—Each executive agency, as far as practicable, shall—

“(A) reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;

“(B) transfer excess property under its control to other Federal agencies and to organizations specified in section 321(c)(2) of this title; and

“(C) obtain excess properties from other Federal agencies to meet mission needs before acquiring non-Federal property.”

(b) CLERICAL AMENDMENT.—The item relating to section 524 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

“524. Duties of the General Services Administration and executive agencies.”

(c) GSA REPORT.—

(1) IN GENERAL.—Not later than three years after the date of the enactment of this Act, the Administrator of General Services shall submit a report to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the implementation of section 524, as amended by subsection (a), and each of the following:

(A) The efforts of each executive agency to reduce such agency’s real property assets, based on data submitted from such agency.

(B) For each excess and surplus real property facility/installation disposed of, an indication of—

(i) the date and method of disposal;

(ii) the proceeds obtained from the disposition of such property;

(iii) the amount of time required to fully dispose of excess and surplus real property under the custody and control of all executive agencies; and

(iv) the cost to dispose of surplus and excess real property under the custody and control of all executive agencies.

(2) DEFINITIONS.—The terms “excess property”, “executive agency”, and “surplus property” have the meanings given those terms in section 102 of title 40, United States Code.

SEC. 4. ENHANCED AUTHORITIES WITH REGARD TO PREPARING PROPERTIES TO BE REPORTED AS EXCESS.

Section 572(a)(2) of title 40, United States Code, is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

“(B) ADDITIONAL AUTHORITY.—(i) From the fund described in paragraph (1), subject to clause (iv) of this subparagraph, the Administrator may obligate an amount to pay the direct and indirect costs related to identifying and preparing properties to be reported excess by another agency.

“(ii) The General Services Administration shall be reimbursed from the proceeds of the sale of such properties for such costs.

“(iii) Net proceeds shall be dispersed pursuant to section 571 of this title.

“(iv) The authority under clause (i) to obligate funds to prepare properties to be reported excess does not include the authority to convey such properties by use, sale, lease, exchange, or otherwise, including through lease-back arrangements or service agreements.

“(v) Nothing in this subparagraph is intended to affect subparagraph (D).”

SEC. 5. ENHANCED AUTHORITIES WITH REGARD TO REVERTED REAL PROPERTY.

(a) AUTHORITY TO PAY EXPENSES RELATED TO REVERTED REAL PROPERTY.—Section 572(a)(2)(A) of title 40, United States Code, is amended by adding at the end the following:

“(iv) The direct and indirect costs associated with the reversion, custody, and disposal of reverted real property.”

(b) REQUIREMENTS RELATED TO SALES OF REVERTED PROPERTY UNDER SECTION 550.—Section 550(b)(1) of title 40, United States Code, is amended—

(1) by inserting “(A)” after “(1) IN GENERAL.—”; and

(2) by adding at the end the following: “If the official, in consultation with the Administrator, recommends reversion of the property, the Administrator shall take control of such property, and, subject to subparagraph (B), sell it at or above appraised fair market value for cash and not by lease, exchange, lease-back arrangements, or service agreements.

“(B) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 553 and 554 of this title.”

(c) REQUIREMENTS RELATED TO SALES OF REVERTED PROPERTY UNDER SECTION 553.—Section 553(e) of title 40, United States Code, is amended—

(1) by inserting “(1)” after “THIS SECTION.—”; and

(2) by adding at the end the following: “If the Administrator determines that reversion of the property is necessary to enforce compliance with the terms of the conveyance, the Administrator shall take control of such property and, subject to paragraph (2), sell it at or above appraised fair market value for cash and not by lease, exchange, leaseback arrangements, or service agreements.

“(2) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 550 and 554 of this title.”.

SEC. 6. AGENCY RETENTION OF PROCEEDS.

The text of section 571 of title 40, United States Code, is amended to read as follows:

“(a) **PROCEEDS FROM TRANSFER OR SALE OF REAL PROPERTY.**—

“(1) **DEPOSIT OF NET PROCEEDS.**—Net proceeds described in subsection (d) shall be deposited into the appropriate real property account of the agency that had custody and accountability for the real property at the time the real property is determined to be excess.

“(2) **EXPENDITURE OF NET PROCEEDS.**—The net proceeds deposited pursuant to paragraph (1) may only be expended as authorized in annual appropriations Acts, for activities described in sections 543 and 545 of this title, including paying costs incurred by the General Services Administration for any disposal-related activity authorized by this title.

“(3) **DEFICIT REDUCTION.**—Any net proceeds described in subsection (d) from the sale, lease, or other disposition of surplus real property that are not expended under paragraph (2) shall be used for deficit reduction.

“(b) **EFFECT ON OTHER SECTIONS.**—Nothing in this section is intended to affect section 572(b), 573, or 574 of this title.

“(c) **DISPOSAL AGENCY FOR REVERTED PROPERTY.**—For the purposes of this section, for any real property that reverts to the United States under sections 550 and 553 of this title, the General Services Administration, as the disposal agency, shall be treated as the agency with custody and accountability for the real property at the time the real property is determined to be excess.

“(d) **NET PROCEEDS.**—The net proceeds described in this subsection are proceeds under this chapter, less expenses of the transfer or disposition as provided in section 572(a) of this title, from a—

“(1) transfer of excess real property to a Federal agency for agency use; or

“(2) sale, lease, or other disposition of surplus real property.

“(e) **PROCEEDS FROM TRANSFER OR SALE OF PERSONAL PROPERTY.**—

“(1) **IN GENERAL.**—Except as otherwise provided in this subchapter, proceeds described in paragraph (2) shall be deposited in the Treasury as miscellaneous receipts.

“(2) **PROCEEDS.**—The proceeds described in this paragraph are proceeds under this chapter from—

“(A) a transfer of excess personal property to a Federal agency for agency use; or

“(B) a sale, lease, or other disposition of surplus personal property.

“(3) **PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT.**—Subject to regulations under this subtitle, the expenses of the sale of personal property may be paid from the proceeds of sale so that only the net proceeds are deposited in the Treasury. This paragraph applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.”.

SEC. 7. FEDERAL REAL PROPERTY DATABASE.

(a) **IN GENERAL.**—Subchapter II of chapter 5 of title 40, United States Code, is amended by adding at the end the following new section:

“§ 530. Federal real property database

“(a) **DATABASE REQUIRED.**—Not later than one year after the date of the enactment of this section, the Administrator of General Services shall publish a single, comprehensive, and descriptive database of all Federal real property under the custody and control of all executive agencies, other than Federal real property excluded for reasons of national security, in accordance with subsection (b).

“(b) **REQUIRED INFORMATION FOR DATABASE.**—The Administrator shall collect from the head of each executive agency descriptive information, except for classified information, of the nature, use, and extent of the Federal real property of each such agency, including the following:

“(1) The geographic location of each Federal real property of each such agency, including the address and description for each such property.

“(2) The total size of each Federal real property of each such agency, including square footage and acreage of each such property.

“(3) The relevance of each Federal real property to the agency’s mission.

“(4) The level of use of each Federal real property for each such agency, including whether such property is excess, surplus, underutilized, or unutilized.

“(5) The number of days each Federal real property is designated as excess, surplus, underutilized, or unutilized.

“(6) The annual operating costs of each Federal real property.

“(7) The replacement value of each Federal real property.

“(c) ACCESS TO DATABASE.—

“(1) FEDERAL AGENCIES.—The Administrator shall, in consultation with the Director of the Office of Management and Budget, make the database established and maintained under this section available to other Federal agencies.

“(2) PUBLIC ACCESS.—To the extent consistent with national security, the database shall be accessible by the public at no cost through the website of the General Services Administration.

“(d) TRANSPARENCY OF DATABASE.—To the extent practicable, the Administrator shall ensure that the database—

“(1) uses an open, machine-readable format;

“(2) permits users to search and sort Federal real property data; and

“(3) includes a means to download a large amount of Federal real property data and a selection of such data retrieved using a search.

“(e) APPLICABILITY.—Nothing in this section may be construed to require an agency to make available to the public information that is exempt from disclosure pursuant to section 552(b) of title 5.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 40, United States Code, is amended by inserting after the item relating to section 529 the following new item:

“530. Federal real property database.”.

SEC. 8. SUSTAINABLE DISPOSAL OF PROPERTY.

(a) IN GENERAL.—Subchapter III of chapter 5 of title 40, United States Code, is amended by adding at the end the following new section:

“§ 560. Sustainable disposal of property

“The head of each Federal agency shall divert at least 50 percent of construction and demolition materials and debris by the end of fiscal year 2015.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 40, United States Code, is amended by inserting after the item relating to section 559 the following new item:

“560. Sustainable disposal of property.”.

SEC. 9. STREAMLINING THE MCKINNEY-VENTO HOMELESS ASSISTANCE ACT.

Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) in subsection (a), by adding at the end the following new sentence: “Agencies shall not be required to submit information to the Secretary regarding properties located in an area for which the general public is denied access in the interest of national security.”;

(2) in subsection (c)(1)(A), by striking “in the Federal Register” and inserting the following: “on the website of the Department of Housing and Urban Development or the General Services Administration”; and

(3) in subsection (d)(3), by adding at the end the following new sentence: “If no such review of the determination is requested within the 20-day period, such property will not be included in subsequent publications unless the landholding agency reclassifies the property as available and the Secretary subsequently determines the property is suitable.”.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 665, the Excess Federal Building and Property Disposal Act of 2011, would streamline the Federal real property disposal process by authorizing a pilot program to expeditiously dispose of real property not meeting the needs of the Federal Government. The legislation requires agencies to select candidate disposition properties for participation in the pilot program and provides the Office of Management and Budget (OMB) authority to choose which properties to place into the pilot program. H.R. 665 exempts the prop-

erties in the pilot program from any of the public benefit conveyance requirements described in Title 40, and from the McKinney-Vento Homeless Assistance Act requirements. The bill requires participating agencies to be reimbursed for associated administrative expenses and allows them to retain 20% of the net proceeds of a sale. The bill directs 80% of sale proceeds to the Treasury Department for debt reduction. During Full Committee consideration of H.R. 665, a more comprehensive Amendment in the Nature of a Substitute (ANS) was adopted. The section-by-section portion of this report elaborates on the content of the ANS.

BACKGROUND AND NEED FOR LEGISLATION

Since 2003, the Government Accountability Office (GAO) has cited Federal real property management as a “high-risk” area for several reasons.¹ GAO has cited concerns about the reliability of real property data, the deteriorating condition of facilities, the large quantity of excess and underutilized properties, an overreliance on leasing, and insufficient security of facilities.² In 2011, GAO narrowed the scope of its concerns, stating that although improvements had been made with regard to the reliability of real property data and building conditions, the other concerns remain.³

The Congressional Research Service (CRS) reports that the Federal Government holds over ten thousand unneeded properties⁴ and spends hundreds of millions of dollars annually on the upkeep and maintenance of these properties.⁵ The government holds over 900,000 buildings and structures,⁶ and approximately 41 million acres of land worldwide.⁷ According to testimony from OMB, the Federal Government currently has approximately 14,000 buildings and structures designated as excess and approximately 76,000 properties classified as underutilized.⁸ GAO testified that in fiscal year 2009 some 45,190 buildings deemed as underutilized cost taxpayers nearly \$1.7 billion annually to operate.⁹

Both the Administration and Congress recognize the financial burden of unneeded Federal real property. On June 10, 2010, President Obama issued a memorandum “Disposing of Unneeded Federal Real Estate,” directing OMB to work with agencies to “produce no less than \$3 billion in cost savings by the end of fiscal year 2012.”¹⁰ These cost savings were to come from increased sale pro-

¹ General Accountability Office, *High Risk Series: An Update*, GAO-11-278, Feb. 2011 [hereinafter GAO High Risk Series].

² *Id.*

³ *Id.*

⁴ Garrett Hatch, Congressional Research Service, *Disposal of Unneeded Federal Buildings: Legislative Proposals in the 112th Congress*, CRS no. R41892, June 24, 2011 (citing 40 U.S.C. § 102) [hereinafter CRS no. R41892].

⁵ Garrett Hatch, Congressional Research Service, *Real Property Disposition: Overview and Issues for the 111th Congress*, CRS no. R41240, Jan. 12, 2011 [hereinafter CRS no. R41240].

⁶ GAO High Risk Series.

⁷ CRS no. R41240.

⁸ *Federal Asset Management: Eliminating Waste by Disposing of Unneeded Federal Real Property*, Hearing before the Subc. on Fed. Financial Mgmt., Gov’t. Info., Fed. Services, and Int’l Sec. of the S. Comm. on Homeland Sec. and Gov’t. Affairs, 112th Cong. 1 (2011) (statement of Hon. Daniel I. “Danny” Werfel, Controller, OMB)

⁹ *Federal Asset Management: Eliminating Waste by Disposing of Unneeded Federal Real Property*, Hearing Before the Subc. on Fed. Financial Mgmt., Gov’t. Info., Fed. Services, and Int’l Sec. of the S. Comm. on Homeland Sec. and Gov’t. Affairs, 112th Cong. 1 (2011) (statement of David J. Wise, Director and Brian J. Lepore, Director, U.S. GAO)

¹⁰ Memorandum on Disposing of Unneeded Federal Real Estate—Increasing Sales, Proceeds, Cutting Operating Costs, & Improving Energy Efficiency, Memorandum for the Heads of Executive Departments and Agencies, June 10, 2010.

ceeds, as well as reduced operating, maintenance and energy expenses. This \$3 billion goal provides a standard for Congress to evaluate what steps landholding agencies have taken to achieve the directive in the memorandum.

During the June 2011 budget deficit reduction debate, the media reported that the sale of surplus Federal real property was suggested as a means to generate revenue to offset spending elsewhere.¹¹ In July 2011, President Obama sent draft real property disposal legislation to Congress. The draft legislation advanced by the President seeks to expedite the disposal of unneeded and underutilized Federal civilian real property assets, with the goal of generating billions of dollars in revenue for the Federal Government. It creates a Civilian Property Realignment Board (CPRB) analogous to the Department of Defense Base Realignment and Closure (BRAC) Commission. Under this proposal, the Board would be responsible for recommending properties for disposal. Ultimately, OMB and Congress must approve or disapprove of the entirety of the Board's recommendations in order for the agencies to begin disposing of them. According to the Administration, the legislation would allow the government to realize \$15 billion in gross proceeds and other savings from the disposal of Federal real property over a 3-year period, once the Board becomes fully operational.

In a June 27, 2011, letter to the Committee, the Congressional Budget Office (CBO) estimated that the President's proposal would increase direct spending by \$60 million over 10 years and could increase discretionary spending by \$420 million over 5 years.¹²

The President's legislation, due to cost and approach, would not likely be supported by Congress. H.R. 665 provides a viable, bipartisan alternative by working within the existing real property disposal process rather than creating a novel process.

LEGISLATIVE HISTORY

The pilot program and the provisions of the ANS discussed below in greater detail have been introduced in bills and supported during previous Congresses. During the 111th Congress, Representative Chaffetz introduced an almost identical bill to H.R. 665. On February 11, 2011, during the 112th Congress, he reintroduced the bill. It was referred to the Committee on Oversight and Government Reform and then to the Subcommittee on Government Organization, Efficiency, and Financial Management.

On July 27, 2011, the Full Committee held a hearing entitled, "Disposal of Federal Real Property: Legislative Proposals." During the hearing, three legislative proposals were examined. Representative Chaffetz, Representative Quigley, and Representative Denham testified regarding the real property disposal bills they had introduced during the 112th Congress. Representative Quigley's bill and Representative Chaffetz's bill share certain characteristics that differentiated them from Representative Denham's bill, which bears greater similarity to the President's real property disposal proposal.

¹¹ Laura Meckler, *Federal Land Up for Budget Grabs*, WALL ST. J., July 16, 2011.

¹² Letter from Hon. Douglas W. Elmendorf, Director, CBO, to Hon. Darrell Issa, Chairman, Comm. on Oversight & Gov't Reform, June 27, 2011, available at <http://www.cbo.gov/ftpdocs/122xx/doc12270/06-28-IssaLtrProperty.pdf>. CBO also said the proposal would probably not yield significant sale proceeds from the disposal of unneeded Federal properties.¹³

On November 17, 2011, the Full Committee held a business meeting to mark up H.R. 665. Representative Quigley offered an ANS which was supported by Representative Chaffetz. Ultimately, the ANS was accepted and adopted by voice vote.

SECTION-BY-SECTION

A section-by-section summary of the ANS adopted during the Full Committee business meeting follows:

Section 1. Short title

This section is the short title of the bill “Excess Federal Building and Property Disposal Act of 2011.”

Section 2. Federal real property disposal pilot program

This section of the bill creates the pilot program to dispose of unneeded Federal real property in an expeditious and efficient manner with the goal of maximizing profit. According to OMB, there are properties within the Federal real property portfolio which can be sold to raise revenue.¹⁴

Under the pilot program created by this section, the OMB Director, in consultation with the head of the General Services Administration (Administrator), is directed to identify, with input from Federal agencies, 15 real properties to be placed on a rolling list for disposal. These properties must meet certain criteria, such as possessing high fair market value. Certain properties such as United States Postal Service properties and properties owned by Indian and Native Alaskans are excluded from the pilot.

The Administrator is further directed to dispose of the properties through a public auction. This method of disposal was recommended by the CBO. Once a property is auctioned and transferred, the Administrator has 15 days to identify another property to be placed on the list for disposal. This rolling list is also referred to as the real property pilot program. It is authorized for five years.

The Committee anticipates that during the pilot program, the standard disposal process under Title 40 will occur contemporaneously. Pilot properties are exempt from certain statutory constraints to disposal. For example, properties sold as part of the pilot program will not be subject to the requirements of Title V of the McKinney-Vento Homeless Assistance Act or the public benefit conveyance requirements.

An agency that participates in the pilot program and GSA are reimbursed for administrative costs. Proceeds from sales under the pilot program are required to be distributed as follows: 98 percent to the General Fund of the Treasury and two percent to a grant fund for homeless assistance.

With the two percent proceeds, the Department of Housing and Urban Development (HUD) is authorized to make grants to non-profit entities for the purchase or rehabilitation of real property suitable to assist the homeless. The HUD Secretary is directed to give preference to nonprofit entities located in the areas in which real property is being sold through the pilot program.

This section also requires the GAO to conduct a study of the effectiveness of the pilot program.

¹³*Id.*

Section 3. Duties of the General Services Administration and executive agencies

This section directs GSA to issue guidance for agencies regarding the development of real property plans. Agencies are required to continuously monitor their real property portfolio and dispose of any unneeded properties in a timely manner. GSA is required to report (one time) on the efficacy of this section three years after enactment.

Section 4. Enhanced authorities with regard to preparing properties to be reported as excess

This section applies to the standard disposal process under Title 40. Specifically, it amends 40 U.S.C. 572(a)(2) to allow GSA and the agencies to be reimbursed for the costs associated with the disposal of real property. After costs are paid, proceeds are distributed pursuant to Section 6, described below.

Section 5. Enhanced authorities with regard to reverted real property

This section amends 40 U.S.C. 572(a)(2)(A) to allow GSA to be reimbursed for the direct and indirect costs associated with a reversion of real property and the disposal of reverted real property. It should be noted that reverted real property at one time or another likely underwent the standard disposal process.

This section also allows the Administrator to dispose of reverted real property through sale under certain circumstances and places certain requirements on these types of disposals. Prior to selling reverted real property, the GSA Administrator shall allow public benefit conveyances.

Section 6. Agency retention of proceeds

This section amends 40 U.S.C. 571 to allow the net proceeds of a sale of real property conducted under the standard disposal process to be returned to the agency that conducted the disposal for the purpose of continuing disposal activities and maintenance to properties. Any remainder shall go to the Treasury for deficit reduction. It also allows proceeds from the sale of personal property to be deposited into the Treasury.

Section 7. Federal real property database

This section codifies the requirement for a Federal real property database and requires GSA to publish the existing database, which the Committee understands is owned by OMB and managed by GSA. This section allows classified information and national security sensitive information to be excluded from publication.

Section 8. Sustainable disposal of property

This section directs agencies to recycle at least 50 percent of construction and demolition materials.

Section 9. Streamlining the McKinney-Vento Homeless Assistance Act

This section streamlines the McKinney-Vento homeless review process. Under Title V of the McKinney-Vento Homeless Assistance Act, a surplus Federal property must be made available to entities

servicing the homeless before it can be conveyed for other public use.¹⁵ This section excludes national security properties from the review conducted by HUD. By excluding national security properties, the standard disposal process should become more efficient.

Under the current process, HUD publishes available properties in the Federal Register. According to HUD, this is an onerous requirement. This section repeals that requirement and directs HUD or GSA to publish the available properties on a website.

EXPLANATION OF AMENDMENTS

The provisions of Representative Quigley’s ANS adopted during the Committee Business Meeting are explained in the Section-by-Section above.

Representative Connolly introduced an amendment to Section 2 of the ANS that was accepted. His amendment gives the Administrator of the General Services Administration the discretion to except from the pilot program those properties the Administrator deems suitable for use as parks or recreational space pursuant to 40 U.S.C. 550(e). This Title allows the Administrator to assign surplus real property to the Secretary of the Interior for sale, lease, or transfer to a state, locality, or municipality. The amendment requires that in making the determination to except parcels of real property from the pilot, the Administrator should consider the “appraised value of the property and the highest and best use.” Appraised value has the plain language meaning. It is the market value of real property as determined by the opinion of a qualified appraiser. “Highest and best use” is a real estate term which “means an appraiser’s supported opinion of the most probable and legal use of a property, based on market evidence, as of the date of valuation.”¹⁶

This amendment is not intended to impede the pilot program created under Section 2 of the ANS. It should be emphasized that the Administrator’s use of this exclusion is intended to be rare and under circumstances in which a parcel of surplus real property has little or no economically beneficial value or use.

COMMITTEE CONSIDERATION

On November 17, 2011, the Committee met in open session and ordered reported favorably the bill, H.R. 665, as amended, by voice vote, a quorum being present.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill would streamline the Federal real property disposal process by authorizing a pilot program to expeditiously dispose of real property not meeting the needs of the Federal government. As such this bill does not relate to employment or access to public services and accommodations.

¹⁵ Garrett Hatch, Congressional Research Service, *Disposal of Unneeded Federal Buildings: Legislative Proposals in the 112th Congress*, CRS no. R41892, June 24, 2011 (citing 40 U.S.C. § 102).

¹⁶ 36 C.F.R. § 254.2 (2011).

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF
THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104-4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 665 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 665. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 665 from the Director of Congressional Budget Office:

FEBRUARY 24, 2012.

Hon. DARRELL ISSA,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 665, the Excess Federal Building and Property Disposal Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact for this estimate is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 665—Excess Federal Building and Property Disposal Act of 2011

Summary: H.R. 665 would amend the Federal Property and Administrative Services Act (Property Act) to facilitate the disposal of federal real property. The legislation would establish a five-year pilot program to expedite the disposal of excess and surplus federal property.

CBO estimates that enacting the bill would increase net direct spending by \$100 million over the 2012–2022 period because it would authorize the General Services Administration (GSA) and other federal agencies to spend proceeds from the sale of federal property that are expected to be collected under current law. Enacting H.R. 665 would not affect revenues. Because the legislation would affect direct spending, pay-as-you-go procedures apply. In addition, CBO estimates that implementing the legislation would cost \$2 million over the 2012–2017 period, assuming the availability of appropriated funds.

H.R. 665 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 665 is shown in the following table. The costs of this legislation fall within budget function 800 (general government) and all budget functions that contain landholding agencies, except 050 (national defense).

	By fiscal year, in millions of dollars—											
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2013–2017	2013–2022
	CHANGES IN DIRECT SPENDING ^a											
Estimated Budget Authority	20	20	20	20	20	0	0	0	0	0	100	100
Estimated Outlays	20	20	20	20	20	0	0	0	0	0	100	100

^aIn addition to the costs shown above, CBO estimates that implementing H.R. 665 would cost \$2 million over the 2013–2017 period for administrative and reporting costs related to property disposal, assuming the availability of appropriated funds.

Basis of estimate: For this estimate, CBO assumes that H.R. 665 will be enacted in fiscal year 2012, that the necessary funds will be provided for each year, and that spending will follow historical patterns for similar programs.

The Federal Property and Administrative Services Act governs the disposition of most federal properties. That act and other statutes that govern real estate transactions of specific agencies and

programs generally require agencies to allocate excess property to other public purposes before offering it for sale. As a result, in most years, only a small portion of excess federal property is typically sold to the public. The remaining properties are transferred to public agencies and institutions through public benefit conveyances. The act also allows GSA to retain 12 percent of the proceeds from sales to cover the costs of auction fees and appraisals. The net proceeds from such sales are deposited in the Treasury as offsetting receipts. Under current law, proceeds from such transactions usually cannot be spent without further Congressional action. Under current law, CBO estimates that net receipts from the sale of surplus property governmentwide will total about \$20 million per year.

The legislation would establish a five-year pilot program to authorize the expedited disposal of excess and surplus federal property. The Director of the General Services Administration, in consultation with the Office of Management and Budget (OMB) and using recommendations of affected executive agencies, would be required to always have 15 federal properties available to participate in the program; the program would terminate five years after enactment. Under the pilot program properties could be sold without some of the administrative reviews and determinations that must occur under current law. Agencies and GSA would be reimbursed for certain expenses related to properties disposed of under this program. Any remaining proceeds from those sales would be divided between two accounts: 98 percent would be deposited in the Treasury as miscellaneous receipts, while 2 percent would be spent for homeless assistance grants.

Based on information from OMB and GSA regarding the status of property governmentwide, CBO expects that that the pilot program would not significantly increase the number of properties sold above the number anticipated under current law. In addition, receipts from sales of properties participating in the pilot program would be spent by GSA and other agencies to reimburse them for their expenses associated with the sales. As a result, CBO estimates that the reimbursement of expenses would increase direct spending of sales proceeds expected under current law by about \$20 million annually over the 2013–2017 period.

Pay-as-you-go considerations: The Statutory Pay-As-You-Go Act establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table. Enacting the legislation would have no effect on revenues.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 665, THE EXCESS FEDERAL BUILDING AND PROPERTY DISPOSAL ACT OF 2011, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM ON NOVEMBER 17, 2011

	By fiscal year, in millions of dollars—												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012–2017	2012–2022
NET INCREASE OR DECREASE (–) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact ...	0	20	20	20	20	20	0	0	0	0	0	100	100

Intergovernmental and private-sector impact: H.R. 665 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On February 1, 2012, CBO transmitted a cost estimate for H.R. 1734, the Civilian Property Realignment Act, as transmitted to the Congressional Budget Office on January 24, 2012. On December 8, 2011, CBO transmitted a cost estimate for H.R. 1734, as ordered reported by the House Committee on Transportation and Infrastructure on October 13, 2011. All three pieces of legislation address federal property but have different provisions. Both versions of H.R. 1734 would establish a commission to sell and dispose of federal property, but the version of that legislation reported by the House Committee on Transportation and Infrastructure would provide the commission with broad authorities to sell and dispose of federal properties (without future Congressional actions). H.R. 665 would not establish a commission but would provide additional authorities to GSA to help facilitate the sale and disposal of federal properties. Those differences are reflected in the estimated cost of the bills.

Estimate prepared by: Federal Spending: Matthew Pickford; Impact on State, Local, and Tribal Governments: Paige Piper/Bach; Impact on the Private Sector: Elizabeth Cove Delisle.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 40, UNITED STATES CODE

* * * * *

SUBTITLE I—FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES

* * * * *

CHAPTER 5—PROPERTY MANAGEMENT

SUBCHAPTER I—PROCUREMENT AND WAREHOUSING

Sec.

501. Services for executive agencies.

* * * * *

SUBCHAPTER II—USE OF PROPERTY

* * * * *

[524. Duties of executive agencies.]

524. Duties of the General Services Administration and executive agencies.

* * * * *

530. Federal real property database.

SUBCHAPTER III—DISPOSING OF PROPERTY

* * * * *
 560. *Sustainable disposal of property.*
 * * * * *

SUBCHAPTER VI—MOTOR VEHICLE POOLS AND TRANSPORTATION SYSTEMS

* * * * *

SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

621. *Federal real property disposal pilot program.*
 622. *Selection of real properties.*
 623. *Expedited disposal requirements.*
 624. *Special rules for deposit and use of proceeds from expedited disposals.*
 625. *Homeless assistance grants.*

* * * * *

SUBCHAPTER II—USE OF PROPERTY

* * * * *

§ 524. Duties of executive agencies

- [(a) REQUIRED.—Each executive agency shall—
- [(1) maintain adequate inventory controls and accountability systems for property under its control;
 - [(2) continuously survey property under its control to identify excess property;
 - [(3) promptly report excess property to the Administrator of General Services;
 - [(4) perform the care and handling of excess property; and
 - [(5) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.
- [(b) REQUIRED AS FAR AS PRACTICABLE.—Each executive agency, as far as practicable, shall—
- [(1) reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;
 - [(2) transfer excess property under its control to other federal agencies and to organizations specified in section 321(c)(2) of this title; and
 - [(3) obtain excess property from other federal agencies.]

§ 524. Duties of the General Services Administration and executive agencies

- (a) *DUTIES OF THE GENERAL SERVICES ADMINISTRATION.—*
- (1) *GUIDANCE.—Not later than 6 months after the date of the enactment of this section, and when necessary thereafter, the Administrator of General Services shall issue guidance for the development and implementation of executive agency real property plans. Such guidance shall include recommendations on—*
- (A) *how to identify excess properties;*
 - (B) *how to evaluate the costs and benefits associated with disposing of real property;*
 - (C) *how to prioritize disposal decisions based on agency missions and anticipated future need for holdings; and*
 - (D) *how best to dispose of those properties identified as excess to meet the needs of the agency.*

(2) ASSISTANCE.—*The Administrator shall assist executive agencies in the identification and disposal of excess real property.*

(b) DUTIES OF EXECUTIVE AGENCIES.—

(1) IN GENERAL.—*Each executive agency shall—*

(A) *maintain adequate inventory controls and accountability systems for property under its control;*

(B) *continuously survey property under its control to identify excess property;*

(C) *promptly report excess property to the Administrator;*

(D) *perform the care and handling of excess property;*
and

(E) *transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.*

(2) SPECIFIC REQUIREMENTS WITH RESPECT TO REAL PROPERTY.—*With respect to real property, each executive agency shall—*

(A) *develop and implement a real property plan in order to identify properties to declare as excess using the guidance issued under subsection (a)(1);*

(B) *identify and categorize all real property owned, leased, or otherwise managed by the agency;*

(C) *establish adequate goals and incentives to reduce excess real property in such agency's inventory; and*

(D) *when appropriate, use the authorities in section 572(a)(2)(B) of this title in order to identify and prepare real property to be reported as excess.*

(3) ADDITIONAL REQUIREMENTS.—*Each executive agency, as far as practicable, shall—*

(A) *reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;*

(B) *transfer excess property under its control to other Federal agencies and to organizations specified in section 321(c)(2) of this title; and*

(C) *obtain excess properties from other Federal agencies to meet mission needs before acquiring non-Federal property.*

* * * * *

§ 530. Federal real property database

(a) DATABASE REQUIRED.—*Not later than one year after the date of the enactment of this section, the Administrator of General Services shall publish a single, comprehensive, and descriptive database of all Federal real property under the custody and control of all executive agencies, other than Federal real property excluded for reasons of national security, in accordance with subsection (b).*

(b) REQUIRED INFORMATION FOR DATABASE.—*The Administrator shall collect from the head of each executive agency descriptive information, except for classified information, of the nature, use, and extent of the Federal real property of each such agency, including the following:*

(1) *The geographic location of each Federal real property of each such agency, including the address and description for each such property.*

(2) *The total size of each Federal real property of each such agency, including square footage and acreage of each such property.*

(3) *The relevance of each Federal real property to the agency's mission.*

(4) *The level of use of each Federal real property for each such agency, including whether such property is excess, surplus, underutilized, or unutilized.*

(5) *The number of days each Federal real property is designated as excess, surplus, underutilized, or unutilized.*

(6) *The annual operating costs of each Federal real property.*

(7) *The replacement value of each Federal real property.*

(c) **ACCESS TO DATABASE.—**

(1) **FEDERAL AGENCIES.—***The Administrator shall, in consultation with the Director of the Office of Management and Budget, make the database established and maintained under this section available to other Federal agencies.*

(2) **PUBLIC ACCESS.—***To the extent consistent with national security, the database shall be accessible by the public at no cost through the website of the General Services Administration.*

(d) **TRANSPARENCY OF DATABASE.—***To the extent practicable, the Administrator shall ensure that the database—*

(1) *uses an open, machine-readable format;*

(2) *permits users to search and sort Federal real property data; and*

(3) *includes a means to download a large amount of Federal real property data and a selection of such data retrieved using a search.*

(e) **APPLICABILITY.—***Nothing in this section may be construed to require an agency to make available to the public information that is exempt from disclosure pursuant to section 552(b) of title 5.*

SUBCHAPTER III—DISPOSING OF PROPERTY

* * * * *

§ 550. Disposal of real property for certain purposes

(a) * * *

(b) **ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—**

(1) **IN GENERAL.—**(A) Subject to disapproval by the Administrator of General Services within 30 days after notice of a proposed action to be taken under this section, except for personal property transferred pursuant to section 549 of this title, the official specified in paragraph (2) shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer under this section is made. The official shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The official shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any

right or interest reserved to the Federal Government by the instrument, if the official determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the official considers necessary to protect or advance the interests of the Government. *If the official, in consultation with the Administrator, recommends reversion of the property, the Administrator shall take control of such property, and, subject to subparagraph (B), sell it at or above appraised fair market value for cash and not by lease, exchange, leaseback arrangements, or service agreements.*

(B) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 553 and 554 of this title.

* * * * *

§ 553. Property for correctional facility, law enforcement, and emergency management response purposes

(a) * * *

* * * * *

(e) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—(1) The Administrator shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer or conveyance under this section is made. The Administrator shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The Administrator shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Government by the instrument, if the Administrator determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the Administrator considers necessary to protect or advance the interests of the Government. *If the Administrator determines that reversion of the property is necessary to enforce compliance with the terms of the conveyance, the Administrator shall take control of such property and, subject to paragraph (2), sell it at or above appraised fair market value for cash and not by lease, exchange, leaseback arrangements, or service agreements.*

(2) Prior to sale, the Administrator shall make such property available to State and local governments and certain non-profit institutions or organizations pursuant to this section and sections 550 and 554 of this title.

* * * * *

§ 560. Sustainable disposal of property

The head of each Federal agency shall divert at least 50 percent of construction and demolition materials and debris by the end of fiscal year 2015.

SUBCHAPTER IV—PROCEEDS FROM SALE OR TRANSFER

§ 571. General rules for deposit and use of proceeds

[(a) DEPOSIT IN TREASURY AS MISCELLANEOUS RECEIPTS.—

[(1) IN GENERAL.—Except as otherwise provided in this subchapter, proceeds described in paragraph (2) shall be deposited in the Treasury as miscellaneous receipts.

[(2) PROCEEDS.—The proceeds referred to in paragraph (1) are proceeds under this chapter from a—

[(A) transfer of excess property to a federal agency for agency use; or

[(B) sale, lease, or other disposition of surplus property.

[(b) PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT.—Subject to regulations under this subtitle, the expenses of the sale of old material, condemned stores, supplies, or other public property may be paid from the proceeds of sale so that only the net proceeds are deposited in the Treasury. This subsection applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.]

(a) *PROCEEDS FROM TRANSFER OR SALE OF REAL PROPERTY.—*

(1) *DEPOSIT OF NET PROCEEDS.—Net proceeds described in subsection (d) shall be deposited into the appropriate real property account of the agency that had custody and accountability for the real property at the time the real property is determined to be excess.*

(2) *EXPENDITURE OF NET PROCEEDS.—The net proceeds deposited pursuant to paragraph (1) may only be expended as authorized in annual appropriations Acts, for activities described in sections 543 and 545 of this title, including paying costs incurred by the General Services Administration for any disposal-related activity authorized by this title.*

(3) *DEFICIT REDUCTION.—Any net proceeds described in subsection (d) from the sale, lease, or other disposition of surplus real property that are not expended under paragraph (2) shall be used for deficit reduction.*

(b) *EFFECT ON OTHER SECTIONS.—Nothing in this section is intended to affect section 572(b), 573, or 574 of this title.*

(c) *DISPOSAL AGENCY FOR REVERTED PROPERTY.—For the purposes of this section, for any real property that reverts to the United States under sections 550 and 553 of this title, the General Services Administration, as the disposal agency, shall be treated as the agency with custody and accountability for the real property at the time the real property is determined to be excess.*

(d) *NET PROCEEDS.—The net proceeds described in this subsection are proceeds under this chapter, less expenses of the transfer or disposition as provided in section 572(a) of this title, from a—*

(1) *transfer of excess real property to a Federal agency for agency use; or*

(2) *sale, lease, or other disposition of surplus real property.*

(e) *PROCEEDS FROM TRANSFER OR SALE OF PERSONAL PROPERTY.*—

(1) *IN GENERAL.*—*Except as otherwise provided in this subchapter, proceeds described in paragraph (2) shall be deposited in the Treasury as miscellaneous receipts.*

(2) *PROCEEDS.*—*The proceeds described in this paragraph are proceeds under this chapter from—*

(A) *a transfer of excess personal property to a Federal agency for agency use; or*

(B) *a sale, lease, or other disposition of surplus personal property.*

(3) *PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT.*—*Subject to regulations under this subtitle, the expenses of the sale of personal property may be paid from the proceeds of sale so that only the net proceeds are deposited in the Treasury. This paragraph applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.*

§ 572. Real property

(a) *IN GENERAL.*—

(1) * * *

(2) *PAYMENT OF EXPENSES FROM THE FUND.*—

(A) *AUTHORITY.*—*From the fund described in paragraph (1), the Administrator may obligate an amount to pay the following direct expenses incurred for the use of excess property and the disposal of surplus property under this subtitle:*

(i) * * *

* * * * *

(iv) *The direct and indirect costs associated with the reversion, custody, and disposal of reverted real property.*

(B) *ADDITIONAL AUTHORITY.*—(i) *From the fund described in paragraph (1), subject to clause (iv) of this subparagraph, the Administrator may obligate an amount to pay the direct and indirect costs related to identifying and preparing properties to be reported excess by another agency.*

(ii) *The General Services Administration shall be reimbursed from the proceeds of the sale of such properties for such costs.*

(iii) *Net proceeds shall be dispersed pursuant to section 571 of this title.*

(iv) *The authority under clause (i) to obligate funds to prepare properties to be reported excess does not include the authority to convey such properties by use, sale, lease, exchange, or otherwise, including through leaseback arrangements or service agreements.*

(v) *Nothing in this subparagraph is intended to affect subparagraph (D).*

[(B)] (C) LIMITATIONS.—

(i) * * *

* * * * *

[(C)] (D) DIRECT PAYMENT OR REIMBURSEMENT.—An amount obligated under this paragraph may be used to pay an expense directly or to reimburse a fund or appropriation that initially paid the expense.

* * * * *

SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

§ 621. Federal real property disposal pilot program

(a) *IN GENERAL.*—The Administrator of General Services (in this subchapter referred to as the “Administrator”), in consultation with the Director of the Office of Management and Budget (in this subchapter referred to as the “Director”), shall conduct a pilot program to be known as the “Federal Real Property Disposal Pilot Program”, under which the Administrator, in consultation with the Director, shall determine which 15 Federal Government real properties that are excess or surplus and have the highest fair market value and the greatest potential to sell and shall dispose of such properties in accordance with this subchapter and through an expedited disposal of real property.

(b) *DISPOSAL.*—During the five-year period beginning on the date of the enactment of the Excess Federal Building and Property Disposal Act of 2011, the Administrator, in consultation with the Director, shall dispose of real property under the Federal Real Property Disposal Pilot Program through a public auction.

(c) *ADDING PROPERTIES TO THE PILOT PROGRAM.*—Not later than 15 days after a property is disposed of under subsection (b), the Administrator, in consultation with the Director, shall designate an additional property, in accordance with subsection (a), to be disposed of under the Federal Real Property Disposal Pilot Program.

(d) *EXCEPTIONS.*—The Administrator shall not include for purposes of the Federal Real Property Pilot Program any of the following types of property:

(1) A parcel of real property, building, or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(2) Properties that are excluded for reasons of national security by the Director of the Office of Management and Budget.

(3) Indian and Native Eskimo properties including—

(A) any property within the limits of any Indian reservation to which the United States owns title for the benefit of an Indian tribe; and

(B) any property title which is held in trust by the United States for the benefit of any Indian tribe or individual or held by an Indian tribe or individual subject to restriction by the United States against alienation.

(4) Properties operated and maintained by the Tennessee Valley Authority pursuant to the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.).

(5) Postal properties owned by the United States Postal Service.

(6) Properties used in connection with river, harbor, flood control, reclamation, or power projects.

(7) *Properties that the Administrator has determined are suitable for assignment to the Secretary of the Interior for transfer to a State, a political subdivision or instrumentality of a State, or a municipality for use as a public park or recreation area under section 550(e) of this title. In making such determination, the Administrator may consider the appraised value of the property and the highest and best use.*

(e) *GAO REPORT.—Not later than 24 months after the date of the enactment of this subchapter, the Comptroller General of the United States shall submit to Congress and make publicly available a study of the effectiveness of the Federal Real Property Pilot Program.*

(f) *TERMINATION.—The Federal Real Property Disposal Pilot Program shall terminate on the date that is five years after the date of the enactment of the Excess Federal Building and Property Disposal Act of 2011.*

§ 622. Selection of real properties

The head of each executive agency shall recommend properties to the Director for disposal under the Federal Real Property Pilot Program. The Director, in consultation with the Administrator, shall then select properties for disposal under the pilot program and notify the recommending executive agency accordingly.

§ 623. Expedited disposal requirements

(a) *EXPEDITED DISPOSAL OF REAL PROPERTY DEFINED.—For purposes of this subchapter, an “expedited disposal of real property” is the sale of real property for cash that is conducted pursuant to the requirements of section 545(a) of this title.*

(b) *FAIR MARKET VALUE REQUIREMENT.—Real property sold under the Federal Real Property Pilot Program may not be sold at less than the fair market value as determined by the Administrator, in consultation with the Director. Costs associated with disposal may not exceed the fair market value of the property unless the Director approves incurring such costs.*

(c) *MONETARY PROCEEDS REQUIREMENT.—Real property shall be sold under the Federal Real Property Pilot Program only if the property will generate monetary proceeds to the Federal Government, as provided in subsection (b). A disposal of real property under the Federal Real Property Pilot Program may not include any exchange, trade, transfer, acquisition of like-kind property, or other non-cash transaction as part of the disposal.*

(d) *RULE OF CONSTRUCTION.—Nothing in this subchapter shall be construed as terminating or in any way limiting authorities that are otherwise available to agencies under other provisions of law to dispose of Federal real property, except as provided in subsection (e).*

(e) *EXEMPTION FROM CERTAIN REQUIREMENTS.—Any expedited disposal of a real property conducted under this subchapter shall not be subject to—*

- (1) *subchapter IV of this chapter;*
- (2) *sections 550 and 553 of this title;*
- (3) *section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);*
- (4) *any other provision of law authorizing the no-cost conveyance of real property owned by the Federal Government; or*

(5) any congressional notification requirement other than that in section 545 of this title.

§ 624. Special rules for deposit and use of proceeds from expedited disposals

(a) **REIMBURSEMENT.**—

(1) **EXECUTIVE AGENCY.**—An executive agency that conducts an expedited disposal of real property under this subchapter shall be reimbursed from the proceeds of such disposal for the administrative expenses associated with such disposal.

(2) **GENERAL SERVICES ADMINISTRATION.**—The General Services Administration shall be reimbursed the expenses of an expedited disposal of real property under this subchapter on behalf of an executive agency from the proceeds of such disposal.

(3) **OFFSETTING COLLECTIONS.**—The amounts described in paragraphs (1) and (2) will be credited as offsetting collections to the account that incurred such expenses, to remain available until expended without further appropriations.

(b) **DISTRIBUTION OF PROCEEDS.**—After payment of the expenses described in subsection (a), the balance of the proceeds shall be distributed as follows:

(1) Ninety-eight percent shall be deposited into the General Fund of the Treasury.

(2) Two percent shall hereby be made available until expended to fund the grant program under section 625.

§ 625. Homeless assistance grants

(a) **GRANT AUTHORITY.**—To the extent amounts are made available pursuant to section 624(b)(2) for use under this section, the Secretary of Housing and Urban Development shall make grants to eligible private nonprofit organizations under subsection (b) to purchase property suitable for use to assist the homeless as provided in subsection (c).

(b) **ELIGIBLE GRANTEES.**—To be eligible to receive a grant under subsection (a), a private nonprofit organization shall be a representative of the homeless, as such term is defined in section 501(i)(4) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(4)).

(c) **USE OF PROPERTIES FOR HOUSING OR SHELTER FOR THE HOMELESS.**—

(1) **ELIGIBLE USES.**—A nonprofit organization that receives a grant under subsection (a) shall use the amounts received under such grant only to acquire or rehabilitate real property for use to provide permanent housing (as such term is defined in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360)), transitional housing (as such term is defined in such section 401), or temporary shelter, for persons who are homeless.

(2) **TERM OF USE.**—The Secretary of Housing and Urban Development may not make a grant under subsection (a) to a private nonprofit organization unless the organization provides the Secretary with such assurances as the Secretary determines necessary to ensure that any property acquired or rehabilitated using the amounts received under such grant is used only as

provided in paragraph (1) of this subsection for a period of not fewer than 15 years.

(d) *PREFERENCE.—In awarding grants under subsection (a), the Secretary of Housing and Urban Development shall give preference for such grants to private nonprofit organizations that operate within areas in which Federal real property is being sold under the Federal Real Property Disposal Pilot Program under this subchapter.*

(e) *NONPROFIT ORGANIZATION.—For purposes of this section, the following definitions shall apply:*

(1) *HOMELESS.—The term “homeless” has the meaning given such term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)), except that subsection (c) of such section shall not apply for purposes of this section.*

(2) *PRIVATE NONPROFIT ORGANIZATION.—The term “private nonprofit organization” has the meaning given such term in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).*

(f) *REGULATIONS.—The Secretary of Housing and Urban Development may issue any regulations necessary to carry out this section.*

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MCKINNEY-VENTO HOMELESS ASSISTANCE ACT

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TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

SEC. 501. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDINGS AND REAL PROPERTY TO ASSIST THE HOMELESS.

(a) *IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, request information from each landholding agency regarding Federal public buildings and other Federal real properties (including fixtures) that are excess property or surplus property or that are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall transmit such information to the Secretary. No later than 30 days after receiving such information, the Secretary shall identify which of those buildings and other properties are suitable for use to assist the homeless. Agencies shall not be required to submit information to the Secretary regarding properties located in an area for which the general public is denied access in the interest of national security.*

* * * * *

(c) *PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall publish [in the Federal Register] on the website of the Department of Housing and Urban Development or the General Services Administration—*

(i) * * *

* * * * *

(d) HOLDING PERIOD.—(1) * * *

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(3) Property that is reviewed by the Secretary under subsection (a) and that is not identified by the Secretary as being suitable for use to assist the homeless may not be made available for any other purpose for 20 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless. The Secretary shall disseminate immediately this information to the regional offices of the Department of Housing and Urban Development and to the United States Interagency Council on Homelessness. *If no such review of the determination is requested within the 20-day period, such property will not be included in subsequent publications unless the landholding agency reclassifies the property as available and the Secretary subsequently determines the property is suitable.*

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