

Calendar No. 555

112th Congress }
2d Session }

SENATE

{ REPORT
{ 112-241

FEDERAL REAL PROPERTY ASSET
MANAGEMENT REFORM ACT OF 2012

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2178

together with

ADDITIONAL VIEWS

TO REQUIRE THE FEDERAL GOVERNMENT TO EXPEDITE THE
SALE OF UNDERUTILIZED FEDERAL REAL PROPERTY

congress.#13

NOVEMBER 27, 2012.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

29-010

WASHINGTON : 2012

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

JOSEPH I. LIEBERMAN, Connecticut, *Chairman*

CARL LEVIN, Michigan

DANIEL K. AKAKA, Hawaii

THOMAS R. CARPER, Delaware

MARK L. PRYOR, Arkansas

MARY L. LANDRIEU, Louisiana

CLAIRE McCASKILL, Missouri

JON TESTER, Montana

MARK BEGICH, Alaska

SUSAN M. COLLINS, Maine

TOM COBURN, Oklahoma

SCOTT P. BROWN, Massachusetts

JOHN McCain, Arizona

RON JOHNSON, Wisconsin

ROB PORTMAN, Ohio

RAND PAUL, Kentucky

JERRY MORAN, Kansas

MICHAEL L. ALEXANDER, *Staff Director*

BETH M. GROSSMAN, *Deputy Staff Director and Chief Counsel*

KRISTINE V. LAM, *Professional Staff Member*

VELVET D. JOHNSON, *Counsel, Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security*

NICHOLAS A. ROSSI, *Minority Staff Director*

MARK B. LEDUC, *Minority General Counsel*

PATRICK J. BAILEY, *Minority Associate Counsel*

TRINA DRIESSNACK TYRER, *Chief Clerk*

Calendar No. 555

112th Congress } SENATE { REPORT
2d Session } 112-241

FEDERAL REAL PROPERTY ASSET MANAGEMENT REFORM
ACT OF 2012

NOVEMBER 27, 2012.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2178]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2178) to require the Federal Government to expedite the sale of underutilized Federal real property, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose	1
II. Background and Need for Legislation	2
III. Legislative History	6
IV. Section-by-Section Analysis of the Bill, as Reported	7
V. Evaluation of Regulatory Impact	10
VI. Congressional Budget Office Estimate	10
VII. Changes in Existing Law Made by the Bill, as Reported	13
VIII. Additional Views	24

I. PURPOSE AND SUMMARY

The purpose of S. 2178 is to streamline the current statutory framework governing the disposal of Federal real property, so that the government can dispose of unneeded or underutilized properties in a more efficient and timely manner. The bill provides the Office of Management and Budget (OMB) with temporary authority to expedite the disposal of unneeded Federal real property and creates a financial incentive for agencies to achieve greater efficiency in their real estate portfolios. Additionally, the bill requires the Secretary of the Department of Housing and Urban Development

(HUD) to use funds made available through the expedited disposal program to provide grants to eligible non-profit organizations for the purposes of acquiring or rehabilitating property in order to provide housing or shelter for the homeless.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Property management is one of the most pressing management problems facing the Federal government today—so much so, that the Government Accountability Office (GAO) has for nearly a decade continuously placed real property management on its “high risk list” of programs whose management problems expose taxpayers to at least \$1 billion in waste annually.¹ In 2003, GAO cited long-standing problems with (1) excess and underutilized property; (2) deteriorating and aging facilities; (3) unreliable property data; and (4) a heavy reliance on costly leasing instead of ownership to meet new needs.² By early 2009 and again in early 2011, GAO confirmed that, while agencies had taken some positive steps to address real property issues, some of the core problems that led to the original high-risk designation persist.³

Both the current and previous administrations have demonstrated a commitment to addressing the Federal government’s property management challenges. In response to administrative reform initiatives and related executive orders and memoranda, by 2003, many Federal agencies established real property asset management plans, standardized property data, and adopted property management performance measures.⁴ A 2004 Presidential Executive Order established a Federal Real Property Council (FRPC), comprised of the Office of Management and Budget (OMB) Controller and senior real property officers of all twenty-four land-holding agencies and charged with promoting reform efforts.⁵ Most recently, a June 2010 presidential memorandum directed agencies to identify and eliminate excess properties to produce a \$3 billion cost savings by the end of Fiscal Year (FY) 2012. The memo 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.⁶

Despite these efforts, weaknesses in the property disposition process have left the Federal government with a large inventory of vacant and underutilized properties. While there continue to be problems with missing data on this inventory, the twenty-four agencies required to submit property data in FY 2010 collectively reported that they currently own or lease more than 3.35 billion

¹U.S. Government Accountability Office, *High Risk Series: Federal Real Property* (Jan. 2003) (GAO-03-122).

²*Id.*

³U.S. Government Accountability Office, *High Risk Series: An Update* (Jan. 2009) (GAO-09-271); U.S. Government Accountability Office, *High Risk Series: An Update* (Feb. 2011) (GAO-11-278).

⁴The White House, Office of the Press Secretary, *Presidential Memorandum—Disposing of Unneeded Federal Real Estate* (June 10, 2010). Can be found at <http://www.whitehouse.gov/the-press-office/presidential-memorandum-disposing-unneeded-federal-real-estate>.

⁵Exec. Order No. 13327, 69 Fed. Reg. 5897 (Feb. 4, 2004).

⁶White House, *Presidential Memorandum—Disposing of Unneeded Federal Real Estate* (June 10, 2010). Can be found at <http://www.whitehouse.gov/the-press-office/presidential-memorandum-disposing-unneeded-federal-real-estate>.

square feet of building floor area in 399,000 separate buildings.⁷ About 557 million square feet (or seventeen percent) of this total space is leased. Of these assets, nearly 78,000 were reported vacant or underutilized, costing the Federal government more than \$1.6 billion in annual operating expenses.⁸

Vacant and underutilized Federal properties are costly to maintain. Every unneeded square foot of building space held by the Federal government requires annual funding for operations and maintenance. This includes the costs of cleaning, heating, lighting, landscaping, and security, as well as any costs related to mortgage or lease payments. Additionally, holding unneeded property carries a hidden opportunity cost due to both the lost revenues that would be gained from selling the property. Over a long period of time, and with a large number of unneeded properties in the government's portfolio, the costs could likely add up to hundreds of millions, if not billions, of dollars wasted. In addition, when an agency holds on to a property it no longer needs, that property cannot be used by other entities such as private business or non-profits to create jobs, spur innovation, increase local and national prosperity, or meet other needs. These properties could be put to more cost-beneficial uses, exchanged for other needed property, or sold to generate revenue for the Federal government.

The Committee is concerned that the current process in place for disposing of Federal property is inefficient and largely at fault for the costs agencies incur each year to maintain vacant and underutilized properties. The disposal process, governed by 40 U.S.C. 5 subchapters III and IV, and under part 101 of title 41 of the Code of Federal Regulations, requires agencies to report excess property to the General Services Administration (GSA). GSA then makes it available to other Federal agencies, which generally pay market value for properties they wish to acquire. However, if no Federal agency expresses interest, the property is deemed surplus Federal and must then go through a lengthy screening process to determine whether it can be offered to state and local governments, and qualified nonprofits, for use in accomplishing public purposes specified in statutes, such as use as educational facilities or for providing services to the homeless. Conveyances under these procedures are either donated or made at values below the fair market.

Agencies have consistently argued that these statutory requirements slow down the disposal process, compelling agencies to incur operating costs for extended periods of time while the properties are being screened. For example, real property officials at the Department of Veterans Affairs (VA) have said the McKinney-Vento Act, which mandates that all surplus property be screened for homeless use, can add as much as two years to the disposal process.⁹ Because public benefit conveyance requirements are set in law, agencies do not have the authority to bypass this step in the process, even for surplus properties that cannot be realistically conveyed, such as those that are uninhabitable due to environmental

⁷Federal Real Property Council, FY 2010 Federal Real Property Report: *An Overview of the U.S. Government's Real Property Assets*, p. 3. Can be found at http://www.gsa.gov/graphics/ogp/FY_2010_FRPP_Report_Final.pdf.

⁸*Id.* at 4.

⁹U.S. Government Accountability Office, *Federal Real Property: Progress Made in Reducing Unneeded Property, but VA Needs Better Information to Make Further Reductions* (Sept. 2008) (GAO-08-939), p. 39.

concerns. Similarly, the Department of Energy (DOE) informed auditors that it has properties that could be disposed of only by demolition, due to their condition or location, but were still subject to the screening process, thereby forcing the agency to pay maintenance costs that could have been avoided.¹⁰ While undoubtedly well intentioned, these requirements have created a patchwork of cumbersome and confusing rules. Their net effect has been to discourage agencies from initiating disposal actions, thereby depriving non-Federal entities of the opportunity to make more productive use of these properties.

The second major obstacle in the disposal process is the lack of financial resources necessary for many agencies to dispose of their surplus facilities. Vacant and underutilized properties are often among the older, most deteriorating assets in agencies' portfolios. Agencies must complete expensive repairs and renovations before the properties are ready for disposal. At the end of FY 2011, GSA identified a \$4.6 billion maintenance and repair liability for the next 10 years.¹¹ Of this total, \$1.3 billion is for immediate maintenance and repair needs.¹² However, funding for restoration and repairs has declined since 2006 and will be difficult to obtain in the current fiscal environment.¹³

Further exacerbating the problem, current law requires most agencies to return funds received from the sale of surplus property to the Treasury, even though it can require a significant upfront investment to get a building ready for disposal. Therefore, an agency that goes through the lengthy disposal process, and uses significant budgetary and personnel resources to do it, is not able to retain the proceeds from the sale. With little incentive to spend the money and other resources needed to dispose of the property, property managers often decide to pay for continued maintenance of vacant or underutilized property rather than to go through the trouble and cost of disposing of it.

Certain agencies have been granted specific statutory authority to retain proceeds from the sale of their property.¹⁴ Retention of proceeds has proven to be an effective tool for Federal agencies to dispose of their unneeded properties.¹⁵ In testimony before the Committee, Robert Peck, the former Commissioner of the Public Buildings Service at GSA, reported that proceeds retention authority has given agencies the incentive to eliminate unneeded assets and an important source of reinvestment funds.¹⁶ For that reason, the Committee believes it is appropriate under the pilot program authorized in S. 2178 to allow agencies to recoup the costs of pre-

¹⁰ U.S. Government Accountability Office, *Federal Real Property: Progress Made Toward Addressing Problems, but Underlying Obstacles Continue to Hamper Reform*, (April 2007) (GAO-07-349), p. 40.

¹¹ U.S. Government Accountability Office, *Federal Buildings Fund: Improved Transparency and Long-Term Plan Needed to Clarify Capital Funding Priorities* (July 2012) (GAO-12-656), p. 16.

¹² *Id.*

¹³ *Id.*

¹⁴ U.S. Government Accountability Office, *Federal Real Property: Authorities and Actions Regarding Enhanced Use Leases and Sale of Unneeded Real Property* (Feb. 2009) (GAO-09-283R), p. 4.

¹⁵ *Id.*

¹⁶ Testimony given to the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services and International Security. Peck, Robert, General Services Administration, June 9, 2011, p. 3.

paring a property for sale, plus up to 18 percent of net proceeds, as an incentive for disposing of these properties.

Compounding the Federal government's property management challenges is agencies' reliance on costly leasing, instead of ownership, to meet new space needs. In a 2011 report, GAO noted that overreliance on costly leased space was one of the primary reasons that Federal real property management remains a high-risk area.¹⁷ According to GAO, the Federal government leases more property than it owns.¹⁸ While leasing may be a viable option when an agency has a desire or need for flexibility or a short-term need, studies have shown that building ownership options through construction or purchase are generally the least expensive ways to meet agencies' long-term occupancy needs.¹⁹

Under current law, the GSA is authorized to lease property for itself and on behalf of many other agencies; however, certain agencies have limited independent leasing authority, which means they do not have to work with GSA to acquire leased space. Some agencies with independent leasing authority, such as the VA, have established in-house real estate expertise, while other agencies with independent leasing authority have not. For example, in 2010, the Securities and Exchange Commission (SEC) executed a \$557 million, 10-year lease for 900,000 square feet of office space, which the SEC's Inspector General described as "another in a long history of missteps and misguided leasing decisions made by the SEC since it was granted independent leasing authority by Congress in 1990."²⁰ The Committee believes that urgent action is needed to consolidate Federal operations onto government-owned sites, where appropriate, thereby reducing the Federal government's leasing portfolio in a way that is advantageous for Federal agencies, stakeholders, and the clientele served by those agencies. This legislation puts in place a strategy for reducing the amount of leased space used for long-term needs when doing so would be less costly.

Homeless advocates have raised concerns regarding the proposed changes to the McKinney-Vento program. However, although thousands of properties are screened every year for homeless use, very few are deemed suitable for transfer to groups assisting the homeless population and even fewer are actually donated to those groups. According to data provided to Committee by GAO, since the inception of the McKinney Vento program in 1987, only 81 properties have been conveyed to groups assisting the homeless, and in the past ten years, only 37 properties have been conveyed. Last year, only one property was given to homeless assistance groups. Meanwhile both taxpayer dollars and energy resources are being wasted to maintain the excess assets in line to be screened or are tied up in legal disputes.

S. 2178 offers a common sense approach that would allow the federal government to maintain its commitment to the homeless, but to do so in a more cost-effective way. First, it would only waive homeless screenings for a small subset of properties that are se-

¹⁷ U.S. Government Accountability Office, *Federal Real Property: Overreliance on Leasing Contributed to High-Risk Designation* (Aug. 2011) (GAO-11-879T), p. 1.

¹⁸ *Id.*

¹⁹ U.S. Government Accountability Office, *Federal Real Property: Reliance on Costly Leasing to Meet New Space Needs is an Ongoing Problem* (Oct. 2005) (GAO-06-136T), p. 2.

²⁰ U.S. Securities and Exchange Commission Office of Inspector General, *Improper Actions Relating to the Leasing of Office Space* (May 2011) (Case No. OIG-553), p. 2.

lected to go through the temporary disposal program we authorize. The language is carefully drafted to make only those properties that can bring in significant revenue eligible for that process. The remaining properties would still be subject to the McKinney-Vento Act. Moreover, the bill authorizes a grant program that would provide 2 percent of the proceeds from the properties sold under the bill to allow homeless providers to purchase or rehabilitate alternative properties to those being sold.

The Committee believes that many of the obstacles that contribute to poor property management can be addressed by offering agencies incentives to dispose of underutilized property, requiring agencies to maintain better data on its real property, and prohibiting agencies from acquiring new real property without disposing of underutilized properties. While the Federal government should always strive to be a good steward of the land and property it owns, it is especially important during a time of shrinking budgets and scarce resources. S. 2178 sets Federal agencies on the path towards improved real property management by facilitating the disposal of unneeded facilities, while establishing a framework for Federal agencies to make more efficient use of existing space. The measure also eliminates costly leasing arrangements, particularly when agencies would be better served by owning the building. This legislation has the potential to generate billions of dollars in proceeds and savings that can be used to reduce the budget deficit and to help agencies obtain the resources that will allow them to better maintain the property necessary for them to fulfill their mission.

III. LEGISLATIVE HISTORY

On June 9, 2011, the Homeland Security and Governmental Affairs Committee's Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security held a hearing to discuss weaknesses in Federal real property management identified by GAO. Witnesses at the hearing were: the Honorable Alan Dixon, Former Chairman, Defense Base Realignment and Closure Commission; Dave Baxa, Chief Executive Officer, VISTA Technology Services, Inc.; Tim Ford, Chief Executive Officer, Association of Defense Communities; Maria Foscarinis, Executive Director, National Law Center on Homelessness and Poverty; the Honorable Daniel I. Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget; Robert Peck, Commissioner, Public Buildings Service, U.S. General Services Administration; James Sullivan, Director, Office of Asset Enterprise Management, U.S. Department of Veterans Affairs; David Wise, Director, Physical Infrastructure Issues, U.S. Government Accountability Office; and Brian Lepore, Director, Defense Capabilities and Management, U.S. Government Accountability Office.

On August 4, 2011, the Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security held a hearing evaluating Federal leasing trends and challenges. Witnesses at the hearing were: the Honorable David Kotz, Inspector General, U.S. Securities and Exchange Commission; David Foley, Deputy Commissioner, Public Buildings Service, U.S. General Services Administration; James Sullivan, Director, Office of Asset Enterprise Management, U.S. Department of

Veterans Affairs; Jeff Heslop, Chief Operating Officer, U.S. Securities and Exchange Commission; and David Wise, Director, Physical Infrastructure Issues, U.S. Government Accountability Office.

On March 8, 2012, Senators Carper and Portman introduced S. 2178, which was referred to the Committee on Homeland Security and Governmental Affairs. The Committee initially considered the legislation at a business meeting on June 27, 2012. The Committee adopted a substitute amendment offered by Senators Carper, Portman, Brown, Pryor, Coburn, Collins, McCaskill, and Begich by voice vote with Senator Akaka asking to be recorded as voting present. Present for the vote were Senators Lieberman, Akaka, Carper, Begich, Collins, Johnson, and Portman. The substitute amendment requires Federal agencies to achieve \$15 billion in real estate savings over a 10-year period, prohibits agencies from acquiring additional space unless the square footage of the increase is offset by the disposal of space from the inventory of that agency, and makes technical changes.

The Committee continued its business meeting on June 29, 2012. On that date, it ordered the bill favorably reported by voice vote with Senator Levin asking to be recorded as voting against the bill and Senator Akaka asking to be recorded as voting present. Members present for the vote on the bill were Senators Lieberman, Levin, Akaka, Carper, Pryor, Landrieu, Tester, Begich, Collins, Brown, McCain, Johnson, Portman, and Moran.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1

This section amends 5 U.S.C. §40 to add a new “Subchapter VII—Expedited Disposal of Real Property.” The new subchapter would contain new sections 621 through 627 in title 40, as follows:

Section 621. Definitions

Section 621 defines the following terms for purposes of the pilot program: Administrator, Council, Director, Disposal, Federal Agency, Real Property, Field Office, Small Business Concern, and Underutilized Property.

Real property, the term used to refer to the property targeted by the legislative changes in the bill, is defined as any Federal asset and includes Federal buildings, occupied and improved grounds, leased space, or other physical structures under the custody and control of any Federal agency.

Section 622. Duties of Federal agencies

Section 622 requires executive agencies to develop a system of managing their real property holdings. Agencies are required to: maintain adequate inventory controls and accountability systems; define future workforce projections and their real property needs; identify underutilized properties through ongoing surveys; report underutilized property to GSA promptly; establish goals for reducing underutilized property; reassign underutilized property to another activity within the agency; transfer underutilized property to other Federal agencies; obtain underutilized properties from other Federal agencies before acquiring nonfederal property when new

space is needed; and adopt workplace practices, management techniques, and space configurations that decrease the need for space.

Section 623. Establishment of a Federal Real Property Council

This section establishes the Federal Real Property Council (FRPC) comprised of the Senior Real Property Officer of each agency, the Deputy Director for Management of OMB, the OMB Controller and the GSA Administrator. The Deputy Director for Management of OMB will chair the FRPC and provide administrative support and funding as necessary. This section requires the FRPC to develop government-wide asset management guidance for executive branch agencies.

This section also requires the FRPC to publish an annual asset management plan that includes performance measures allowing Congress to track progress in achieving property management goals government-wide and compare the performance of executive agencies against industry and other public sector agencies.

Finally, the provision directs that within 180 days after the enactment of this legislation and annually for a five-year period thereafter, the FRPC must submit to Congress a list of agency field offices that are suitable for co-location with another Federal civilian property asset, including assets owned by the U.S. Postal Service. Within 30 days of the submission of this list, the OMB Director and the Postmaster General must identify the field offices within a reasonable distance of Postal property. Not later than 90 days after the receipt of the list, the Postmaster General must review the list and submit to the Director of OMB a report containing the conclusions of the review. After these steps are completed, agencies may lease space in Postal Service facilities for durations of not less than five years at a cost that is within 5 percent of the prevailing market lease rate of similarly situated space.

Section 624. Database

This section requires the GSA Administrator to establish and maintain a single comprehensive and descriptive database of all Federal real property. The Administrator is required to collect the information necessary to describe the nature, use, and size of the government's portfolio, and to make the database accessible to the public at no cost.

Section 625. Limitation on certain leasing authorities

This section requires each agency with independent leasing authority to consult with GSA about leases that exceed the threshold set by GSA annually pursuant to 40 U.S.C. § 3307, which establishes a prospectus threshold for the construction, alteration, purchase, or lease of a public building. Additionally each of these agencies must acquire space at rates comparable to other properties in the area and submit a report to the GSA Administrator within 180 days of enactment describing the use of independent leasing authority by the agency.

Section 626. Expedited disposal program

This section establishes a five year-pilot program under which agencies may use an expedited process to dispose of certain under-utilized properties. This disposal program requires agencies to dis-

pose of underutilized properties as established in their annual asset management plans. All properties selected for the disposal program would be exempt from a range of provisions in existing laws, including statutory provisions requiring agencies to offer the selected properties for public benefit conveyance. Under this section, the OMB Director is required to select properties already designated as underutilized to participate in this expedited disposal program. Agencies must make property available for sale within 18 months after receiving a determination from the OMB Director that the property is underutilized. Properties being disposed under the program must be sold at an auction that is structured and marketed to ensure the maximum amount of net proceeds. Under this disposal program, if an agency fails to sell a designated underutilized property within 18 months of being directed to do so by the OMB Director, the agency will no longer be allowed to acquire additional property unless the square footage of the increase is offset through consolidation, co-location with another agency, or disposal of another property from the inventory of that agency.

Additionally, proceeds from the disposal of real property under this disposal program will be distributed as follows: eighty percent to the Treasury for deficit reduction; the lesser of 18 percent or the share of proceeds otherwise authorized to be retained under law will be retained by the landholding agency conducting the sale; and not more than two percent will be used to fund homeless assistance grants as authorized in the new section 627 of title 40 as added by the bill. Agencies will have one year to use any proceeds they receive, but only after use of those funds have been authorized in annual appropriations acts. The funds may only be used for real property asset management and disposal.

Finally, this section requires the FRPC to submit an annual report to the OMB Director listing each Federal agency that fails to meet its underutilized property reduction goal as well as a list of the remaining underutilized properties of that agency. This report must be submitted within a year of enactment and annually thereafter for a period of five years. In addition, the Director is required to issue an annual scorecard that measures the success of each agency in achieving savings and determines whether the government is on track to meeting a goal of \$15 billion in property savings over a ten-year period.

Section 627. Homeless assistance grants

This section requires the Secretary of the Department of Housing and Urban Development (HUD) to use funds received from the proceeds of property sales under the pilot program for grants to eligible private non-profit organizations through the continuum of care program established under title IV of the McKinney-Vento Homeless Assistance Act.

Sec. 202

This section amends 40 U.S.C. § 3305 to add a new “Section—Consideration of Life-Cycle Costs Required.” This section requires that the full life-cycle cost of a public building is considered in the construction or lease of a public building.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill. The Committee agrees with the Congressional Budget Office that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments, or private entities. The enactment of this legislation will not have significant regulatory impact.

VI. CONGRESSIONAL BUDGET OFFICE ESTIMATE

SEPTEMBER 10, 2012.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2178, the Federal Real Property Asset Management Reform Act of 2012.

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.

S. 2178—Federal Real Property Asset Management Reform Act of 2012

Summary: S. 2178 would amend the Federal Property and Administrative Services Act (Property Act) to facilitate the disposal of federal real property. The legislation would expand the duties and responsibilities of the Federal Real Property Council (FRPC), provide new authorities to the General Services Administration (GSA), and establish a five-year program to expedite the disposal of underutilized federal property.

CBO estimates that, assuming the availability of appropriated funds, implementing S. 2178 would cost \$103 million over the 2013–2017 period for additional administrative and reporting activities related to disposing of property.

Enacting the bill would affect direct spending by increasing both receipts from property sales and spending of those receipts; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any change in net direct spending would not be significant. Enacting the legislation would not affect revenues.

S. 2178 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 S. 2178 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—					
	2013	2014	2015	2016	2017	2013–2017
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Federal Real Property Council:						
Estimated Authorization Level	20	21	21	21	22	105
Estimated Outlays	16	20	21	21	22	100
Other Provisions:						
Estimated Authorization Level	1	*	*	*	*	3
Estimated Outlays	1	*	*	*	*	3
Total Changes:						
Estimated Authorization Level	21	21	21	21	22	108
Estimated Outlays	17	20	21	21	22	103

Note: * = less than \$500,000.

Basis of estimate: For this estimate, CBO assumes that S. 2178 will be enacted near the end of 2012, that the necessary funds will be provided for each year, and that spending will follow historical patterns for the affected programs.

Federal Real Property Council

S. 2178 would codify and expand the duties of the FRPC. Under the legislation, the council would be required to publish an annual asset management plan that includes performance measures for managing real property. The FRPC also would have to submit a report to the Congress that analyzes the entire federal property inventory within 180 days of enactment of the bill and annually for the subsequent five years. The report would include information collected by GSA on leased property, an analysis of the suitability of properties for co-locating federal agencies, an analysis of the extent of underutilized property, and a plan to dispose of assets. Based on information from GSA and the cost of similar councils and commissions, CBO estimates that implementing those provisions would cost about \$20 million annually.

Other provisions

The legislation would require GSA to improve its database of real property and the Government Accountability Office to prepare a report for the Congress on the federal properties conveyed to organizations that assist homeless persons. Based on information from GSA and on similar GAO reports, CBO estimates that those activities would cost \$3 million over the 2013–2017 period, assuming the availability of appropriated funds.

Direct spending

Under the Property Act, GSA currently manages the disposal of surplus federal property for most agencies. That act allows GSA to retain 12 percent of the proceeds from public sales to cover the direct costs of such activities as paying auction fees and conducting appraisals. S. 2178 would allow GSA to retain and use additional proceeds from the sales of underutilized property to help pay for the direct and indirect costs of other agencies’ disposal activities. Such costs would include market research, cost/benefit analyses, and other activities to identify and prepare properties for disposal that have not yet been declared excess to the government’s needs. Under the bill, any remaining net proceeds from federal property

sales would be available, subject to future appropriation, to cover the costs of other property management activities.

The legislation also would establish a five-year program to expedite the disposal of underutilized federal property. Under that program, properties could be sold without some of the administrative reviews and determinations that must occur under current law. Proceeds from those sales would be available to be spent, subject to future appropriation. The Director of the Office of Management and Budget would identify the federal properties available for disposal under this expedited program, which would terminate five years after enactment. Under the bill, agencies would be prohibited from acquiring or leasing new property until they have disposed of all of their underutilized property.

CBO expects that GSA and other federal agencies would use some of the new authorities provided in this bill to make more properties available for disposal than would be available under current law. The number of additional properties made available would be modest, however, because we expect that many of the largest federal agencies that manage significant numbers of properties would probably opt to continue using their enhanced-use leasing authorities rather than GSA's disposal services to leverage value from underused real property. In addition, spending of the proceeds from property sales that are expected to occur under current law would increase because S. 2178 would expand the purposes for which such receipts could be used. In total, the net change in direct spending would be insignificant, CBO estimates.

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. CBO estimates that enacting S. 2178 would affect net direct spending, but any such effects would be insignificant. Enacting the legislation would not affect revenues.

Intergovernmental and private-sector impact: S. 2178 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimates: CBO has prepared cost estimates for four other pieces of legislation concerned with the management of federal real property:

- On March 13, 2012, CBO transmitted a cost estimate for H.R. 665, the Excess Federal Building and Property Disposal Act of 2012, as provided to CBO by the House Committee on Oversight and Government Reform on February 28, 2012.

- On February 24, 2012, CBO transmitted a cost estimate for H.R. 665, as ordered reported by the House Committee on Oversight and Government Reform on November 17, 2011.

- 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 by the House Committee on the Budget 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.

S. 2178 and these four pieces of legislation address the disposal of unwanted federal property, but because the bills differ in terms of their comprehensiveness and general approach to property man-

agement and disposal, CBO's estimates of their budgetary impacts are different.

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.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2178 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

* * * * *

CHAPTER 5—PROPERTY MANAGEMENT

* * * * *

SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

SEC. 621. DEFINITIONS.

In this subchapter:

(1) *ADMINISTRATOR.*—The term ‘Administrator’ means the Administrator of General Services.

(2) *COUNCIL.*—The term ‘Council’ means the Federal Real Property Council established by section 623(a).

(3) *DIRECTOR.*—The term ‘Director’ means the Director of the Office of Management and Budget.

(4) *DISPOSAL.*—The term ‘disposal’ means any action that constitutes the removal of any real property from the Federal inventory, including sale, deed, demolition, or exchange.

(5) *FEDERAL AGENCY.*—The term ‘Federal agency’ means—

(A) an executive department or independent establishment in the executive branch of the Government; and

(B) a wholly owned Government corporation.

(6) *REAL PROPERTY.*—

(A) *IN GENERAL.*—The term ‘real property’ means any Federal real property asset.

(B) *INCLUSIONS.*—The term ‘real property’ includes—

(i) Federal buildings (as defined in section 3301); and

(ii) occupied and improved grounds, leased space, or other physical structures under the custody and control of any Federal agency.

(C) *EXCLUSIONS.*—The terms ‘real property’ does not include—

(i) any military installation (as defined in section 2910 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note; Public Law 101-510));

(ii) any property that is excepted from the definition of the term 'property' under section 102;

(iii) a designated wilderness study area or other areas managed for wilderness characteristics;

(iv) Indian and native Eskimo property held in trust by the Federal Government as described in section 3301(a)(5)(C)(iii);

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

(vi) postal property owned by the United States Postal Service; or

(vii) any property the Director excludes for reasons of national security.

(7) **FIELD OFFICE.**—The term 'field office' means any office of a Federal agency that is not the headquarters office location for the Federal agency.

(8) **SMALL BUSINESS CONCERN.**—The term 'small business concern' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

(9) **UNDERUTILIZED PROPERTY.**—The term 'underutilized property' means any real property that is—

(A) excess;

(B) surplus;

(C) underperforming; or

(D) otherwise not meeting the needs of the Federal Government, as determined by the Director.

SEC. 622. DUTIES OF FEDERAL AGENCIES.

Each Federal agency shall—

(1) maintain adequate inventory controls and accountability systems for real property under the control of the agency;

(2) define current and future workforce projections so as to have the capacity to assess the needs of the Federal workforce regarding the use of real property;

(3) continuously survey real property under the control of the agency to identify underutilized property;

(4) promptly report underutilized property to the Administrator;

(5) establish goals that lead the agency to reduce underutilized property in the inventory of the agency not later than December 31, 2016;

(6) reassign underutilized property to another activity within the agency if the property is no longer required for purposes of the appropriation used to make the purchase;

(7) transfer underutilized property under the control of the agency to other Federal agencies and to organizations specified in section 321(c)(2);

(8) obtain underutilized properties from other Federal agencies to meet mission needs before acquiring non-Federal property; and

(9) adopt workplace practices, configurations, and management techniques that can achieve increased levels of productivity and decrease the need for real property assets.

SEC. 623. ESTABLISHMENT OF A FEDERAL REAL PROPERTY COUNCIL.

(a) *ESTABLISHMENT.*—There is established a Federal Real Property Council.

(b) *PURPOSE.*—The purpose of the Council shall be to develop guidance for the asset management program of each Federal agency.

(c) *COMPOSITION.*—

(1) *IN GENERAL.*—The Council shall be composed exclusively of—

(A) the senior real property officers of each executive agency;

(B) the Deputy Director for Management of the Office of Management and Budget;

(C) the Controller of the Office of Management and Budget;

(D) the Administrator; and

(E) any other full-time or permanent part-time Federal officials or employees, as the Chairperson determines to be necessary.

(2) *CHAIRPERSON.*—The Deputy Director for Management of the Office of Management and Budget shall serve as Chairperson of the Council.

(3) *ADMINISTRATIVE SUPPORT.*—The Office of Management and Budget shall provide funding and administrative support for the Council, as appropriate.

(d) *DUTIES.*—The Council, in consultation with the Director and the Administrator, shall—

(1) establish an asset management plan, to be updated annually, which shall include performance measures to determine the effectiveness of real property management that are designed—

(A) to enable Congress and heads of Federal agencies to track progress in the achievement of property management objectives on a government-wide basis; and

(B) allow for comparison of the performance of Federal agencies against industry and other public sector agencies in terms of performance;

(2) develop standard use rates consistent throughout each category of space and with nongovernmental space use rates;

(3) not later than 180 days after the date of enactment of this subchapter, and annually for a 5-year period thereafter, submit to the Committees on Environment and Public Works and Homeland Security and Governmental Affairs of the Senate and the Committees on Transportation and Infrastructure and Oversight and Government Reform of the House of Representatives a report that contains—

(A) an analysis of the existing inventory of real property and the condition of that property, including data relating to—

(i) the age and condition of the property;

(ii) the size of the property in square footage and acreage;

(iii) the geographical location of the property, including an address and description;

(iv) operating costs associated with the property;

(v) the history of capital expenditures associated with the property;

(vi) sustainability metrics associated with the property;

(vii) the number of Federal employees and functions housed in the property; and

(viii) the relevance of each property to the mission of the Federal agency;

(B) a list of real property assets that are field offices that are suitable for co-location into another real property asset;

(C) an evaluation of the leasing process in effect as of the date of submission of the report to identify and document inefficiencies in that process;

(D) a suggested strategy to reduce the reliance of Federal agencies on leased space for long-term needs if ownership would be less costly; and

(E) an assessment of Federally leased space, including—

(i) a description of the overall quantity and type of space leased by Federal agencies; and

(ii) an identification of current contracts for leased office space in which the leased space is not fully used or occupied (including a plan for subletting of unoccupied space if appropriate);

(F) an analysis of all underutilized property under the jurisdiction of each Federal agency that can be removed from the Federal inventory and sold for proceeds, transferred, or otherwise disposed of, so as to reduce the civilian real property inventory and associated operating costs of the Federal Government;

(G) an asset disposal plan, or an update of an asset disposal plan, that includes an annual goal established under section 622(5) to be used by Federal agencies in reducing, by not later than 5 years after the date of enactment of this subchapter, underutilized property in the inventory of the Federal Government;

(H) the number of real property disposals completed, including the disposal method used for each individual real property; and

(I) specific milestones, measurable savings, and evaluation criteria for the disposal of real property under this subchapter;

(4) in accordance with subsection (e), identify and compile a list of real property assets that are field offices that are suitable for co-location into other real property assets; and

(5)(A) review contracts for leased office space that are in effect as of the date of submission of the report; and

(B) work with Federal agencies to renegotiate leases having at least 2 years remaining in the term of the leases to recognize potential cost savings as quickly as practicable.

(e) CO-LOCATION AMONG POSTAL SERVICE PROPERTIES.—

(1) *DEFINITION OF POSTAL PROPERTY.*—*In this subsection, the term ‘Postal property’ means any building owned by the United States Postal Service.*

(2) *IDENTIFICATION OF REAL PROPERTY ASSETS.*—*Each year, the Council shall—*

(A) *identify and compile a list of field offices that are suitable for co-location with another real property asset; and*

(B) *submit the list to the Director of the Office of Management and Budget and the Postmaster General.*

(3) *POSTAL PROPERTY.*—

(A) *IN GENERAL.*—*Not later than 30 days after the completion of the list under paragraph (2), the Director of the Office of Management and Budget, in collaboration with the Postmaster General, shall identify field offices on the list that are within reasonable distance of a Postal property.*

(B) *REASONABLE DISTANCE.*—*For purposes of this paragraph, a field office shall be considered within reasonable distance of a Postal property if the office would be able to fulfill the mission of the office if the office is located at the Postal property.*

(C) *REVIEW BY POSTAL SERVICE.*—*Not later than 90 days after the receipt of the list submitted under paragraph*

(3)(B), *the Postmaster General shall—*

(i) *review the list; and*

(ii) *submit to the Director of the Office of Management and Budget a report containing the conclusions of the review.*

(4) *TERMS OF CO-LOCATION.*—*On approval of the recommendations under paragraph (4) by the Postmaster General and the applicable agency head, the co-location of a Postal property and an field office shall consist of the Executive agency that owns or leases the field office entering into a lease for space within the Postal property with United States Postal Service that has—*

(A) *an initial lease term of not less than 5 years;*

(B) *a cost that is within 5 percent of the prevailing market lease rate for a similarly situated space identified under this subsection.”.*

TITLE II—PROPERTY MANAGEMENT POLICY

SEC. 201. PROPERTY MANAGEMENT POLICY.

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

SEC. 624. DATABASE.

The Administrator shall—

(1) *not later than 1 year after the date of enactment of this subchapter, establish and maintain a single, comprehensive, and descriptive database of all real property under the custody and control of all Federal branch agencies, except when otherwise required for reasons of national security;*

(2) collect from each Federal agency such descriptive information (except for classified information) as the Administrator determines will best describe the nature, use, and extent of real property holdings for the Federal Government; and

(3) to the extent consistent with national security, make the database established under paragraph (1) accessible to the public at no cost through the website of the General Services Administration.

SEC. 625. LIMITATION ON CERTAIN LEASING AUTHORITIES.

Notwithstanding any other provision of this subchapter, a Federal agency with independent leasing authority shall—

(1) consult with the Administrator for all leases requiring a prospectus under section 3307;

(2) acquire space at rates consistent with prevailing market rates for comparable facilities within the specified geographical area; and

(3) not later than 180 days after the date of enactment of this subchapter and annually thereafter, submit to the Administrator a report that describes the use of the independent leasing authority during the period covered by the report.

SEC. 626. EXPEDITED DISPOSAL PROGRAM.

(a) **IN GENERAL.**—

(1) **REQUIRED DISPOSAL.**—

(A) **IN GENERAL.**—On an annual basis, the Director shall require Federal agencies to dispose of, by sale, transfer, or other means of disposal, any real property determined by the Director to be underutilized property.

(B) **COSTS ASSOCIATED WITH DISPOSAL.**—

(i) **IN GENERAL.**—The Administrator may obligate an amount to pay any direct and indirect costs under section 572 related to identifying and preparing properties to be reported as excess by a Federal agency.

(ii) **REIMBURSEMENT.**—An amount obligated under clause (i) shall be paid from the proceeds of any sale of underutilized property.

(iii) **NET PROCEEDS.**—Net proceeds shall be distributed under subsection (b).

(C) **MAXIMUM NET PROCEEDS.**—Underutilized property required to be disposed of by sale of under subparagraph (A) shall be sold at an auction that, as determined by the Administrator in consultation with the head of the applicable Federal agency, is structured and marketed to ensure the maximum amount of net proceeds.

(D) **MONETARY PROCEEDS REQUIREMENT.**—

(i) **IN GENERAL.**—Underutilized property may be sold under this section only if disposal of the property will generate monetary proceeds to the Federal Government that exceed the costs of disposal of the property.

(ii) **PROHIBITIONS ON NONCASH TRANSACTIONS.**—A disposal of underutilized property under this section may not include any exchange, trade, transfer, acquisition of the like-kind property, or other noncash transaction as part of the disposal.

(2) *APPLICABILITY OF CERTAIN LAW.*—Any expedited disposal of underutilized property conducted under this section shall not be subject to—

(A) any section of An Act Authorizing the Transfer of Certain Real Property for Wildlife, or other Purposes (16 U.S.C. 667b);

(B) sections 107 and 317 of title 23;

(C) sections 545(b)(8), 550, 553, 554, and 1304(b) of this title;

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

(E) section 47151 of title 49;

(F) section 13(d) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(d));

(G) any other provision of law authorizing the conveyance of real property owned by the Federal Government for no consideration; or

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

(b) *USE OF PROCEEDS.*—

(1) *IN GENERAL.*—Of the proceeds received from the disposal of any real property under this subchapter—

(A) not less than 80 percent shall be returned to the general fund of the Treasury for debt reduction;

(B) the lesser of 18 percent or the share of proceeds otherwise authorized to be retained under law shall be retained by Federal agencies, subject to paragraph (2);

(C) not more than 2 percent shall be made available to carry out section 627, subject to annual appropriations; and

(D) any remaining share of the proceeds shall be returned to the general fund of the Treasury for Federal budget deficit reduction.

(2) *LIMITATION ON USE OF PROCEEDS.*—Any proceeds retained by Federal agencies under this section shall be—

(A) deposited into the appropriate real property account of the agency that had custody and accountability for the underutilized property, with the funds expended only as authorized in annual appropriations Acts;

(B) used—

(i) by not later than 1 year after the date of disposal of the real property; and

(ii) only for activities relating to Federal real property asset management and disposal; and

(C) if not used by the date described in subparagraph (A)(i), shall be deposited in the Treasury and used for Federal budget deficit reduction.

(c) *PUBLIC BENEFIT.*—

(1) *CONVEYANCE.*—If an underutilized property has not been disposed of by the date that is 2 years after the date the property is listed for sale, the Director, in consultation with the Administrator and the Secretary of Housing and Urban Development, may consider a request from the disposing agency that the underutilized property be conveyed to State and local gov-

ernments or nonprofit organizations for various public purposes or uses as permitted by applicable law.

(2) **PREDOMINANT USE AND SIZE STANDARDS.**—

(A) **IN GENERAL.**—Underutilized property the predominant use of which is other than housing, and the area of which is equal to or greater than 25,000 square feet or the appraised fair market value of which exceeds \$2,000,000, shall be considered to be unsuitable for disposal under this subsection.

(B) **APPRAISED FAIR MARKET VALUE.**—The appraised fair market value described in subparagraph (A) shall be determined by the Federal agency with custody or control of the property, in consultation with the Administrator and standard appraisal practice.

(d) **ENFORCEMENT.**—

(1) **IN GENERAL.**—

(A) **INCREASE IN SIZE OF INVENTORY.**—Except as provided in subparagraph (B) and paragraph (2) and, if a Federal agency fails to make available for public sale the underutilized properties described in subsection (a) by the date that is 18 months after the date of a determination by the Director under subsection (a), that Federal agency, except for specific exceptions promulgated by the Director, shall not increase the size of the civilian real property inventory, unless the square footage of the increase is offset, within an appropriate time as determined by the Director, through consolidation, colocation, or disposal of another building space from the inventory of that agency.

(B) **EXCEPTION.**—Subparagraph (A) shall not apply to a Federal agency that acquires any real property not under the administrative jurisdiction of the Federal Government, by sale or lease, until the Director submits a certification to Congress of the disposal of all of those surplus real properties.

(2) **WAIVER.**—Paragraph (1) shall not apply to a Federal agency if—

(A) the Federal agency submits to the Director and the Committees on Environment and Public Works and Homeland Security and Governmental Affairs of the Senate and the Committees on Transportation and Infrastructure and Oversight and Government Reform of the House of Representatives a written justification describing—

(i) the reasons why the surplus real properties described in subsection (a) under the jurisdiction of the Federal agency were not disposed of; or

(ii) why the restriction on growth without an identified offset obstructs the performance of a mission-critical function; and

(B) Congress enacts a law approving the waiver.

(3) **OMB Scorecard.**—

(A) **IN GENERAL.**—The Director shall prepare an annual scorecard measuring the success of each Federal agency in achieving savings under this subchapter.

(B) **GOVERNMENT-WIDE SAVINGS.**—The Director shall use the scorecard described in subparagraph (A) to determine

whether the sum of the savings of each agency is at least \$15,000,000,000 over a 10-year period.

(4) *REPORT.*—Not later than 1 year after the date of enactment of this subchapter and once for every 5-year period thereafter, the Council shall submit to the Director a report listing each Federal agency that fails to meet the applicable underutilized property reduction goal established under section 622(5), along with a list of the remaining underutilized properties of the Federal agency.

(e) *TERMINATION OF AUTHORITY.*—The authority provided by this section terminates on the date that is 5 years after the date of enactment of this subchapter.

SEC. 627. HOMELESS ASSISTANCE GRANTS.

(a) DEFINITIONS.—In this section:

(1) *ELIGIBLE NONPROFIT ORGANIZATION.*—The term ‘eligible nonprofit organization’ means a nonprofit organization that is a representative of the homeless.

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

(3) *PERMANENT HOUSING.*—The term ‘permanent housing’ has the meaning given the term section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).

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

(5) *REPRESENTATIVE OF THE HOMELESS.*—The term ‘representative of the homeless’ has the meaning given the term in section 501(i) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)).

(6) *SECRETARY.*—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

(7) *TRANSITIONAL HOUSING.*—The term ‘transitional housing’ has the meaning given the term in section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360).

(b) *GRANT AUTHORITY.*—

(1) *IN GENERAL.*—To the extent amounts are made available under section 626 for use under this section, the Secretary shall make grants to eligible private nonprofit organizations through the continuum of care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.), to purchase property suitable for use to assist the homeless in accordance with subsection (c).

(2) *TERMS AND CONDITIONS.*—Except as otherwise provided in this section, a grant under this section shall be subject to the same terms and conditions as a grant under the continuum of care program established under subtitle C of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11381 et seq.).

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

(1) *ELIGIBLE USES.*—An eligible private nonprofit organization that receives a grant under subsection (b) shall use the

amounts received only to purchase or rehabilitate real property for use to provide permanent housing, transitional housing, or temporary shelter to the homeless.

(2) *TERM OF USE.*—The Secretary may not make a grant under subsection (b) to an eligible private nonprofit organization unless the eligible private nonprofit organization provides to the Secretary such assurances as the Secretary determines necessary to ensure that any property purchased or rehabilitated using amounts received under the grant is used only for the uses described in paragraph (1) for a period of not less than 15 years.

(d) *PREFERENCE.*—In awarding grants under subsection (b), the Secretary shall give preference to eligible private nonprofit organizations that operate within areas in which Federal real property is being sold under the disposal program authorized under section 626.

(e) *REGULATIONS.*—The Secretary may promulgate such regulations as are necessary to carry out this section.”.

(b) *REPORT OF THE COMPTROLLER GENERAL.*—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the use by executive agencies of the authorities provided by this Act and amendments made by this Act.

SEC. 202. CONSIDERATION OF LIFE-CYCLE COST REQUIRED.

(a) *IN GENERAL.*—Section 3305 of title 40, United States Code, is amended by adding at the end the following:

(d) *CONSIDERATION OF LIFE-CYCLE COST REQUIRED.*—

(1) *DEFINITIONS.*—In this subsection:

(A) *LIFE-CYCLE COST.*—The term ‘life-cycle cost’ means the sum of the following costs, as estimated for the lifetime of a building:

- (i) Investment costs.
- (ii) Capital costs.
- (iii) Installation costs.
- (iv) Energy costs.
- (v) Operating costs.
- (vi) Maintenance costs.
- (vii) Replacement costs.

(B) *LIFETIME OF A BUILDING.*—The term ‘lifetime of a real property asset’ means, with respect to an asset, the greater of—

- (i) the period of time during which the asset is projected to be used; or
- (ii) 50 years.

(2) *REQUIREMENT.*—The Council shall ensure that the life-cycle cost of a real property asset is considered in the construction or lease of a real property asset described in paragraph (3).

(3) *FEDERAL PUBLIC BUILDINGS SUBJECT TO REQUIREMENT.*—A real property asset shall be subject to the requirement under paragraph (2) if—

- (A) construction or lease of the asset begins after the date on which the Council is established;
- (B) the estimated construction costs of the asset exceed \$1,000,000;

(C) in the case of a lease, the square footage of the asset is more than 25,000 square feet; and

“(D) Federal funding comprises more than 50 percent of the funding for the estimated construction or lease costs of the asset.”.

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

ADDITIONAL VIEWS

The Committee reported bill requires federal agencies to dispose of property determined by the Director of OMB to be underutilized. The bill further requires the Director to report on which agencies do not achieve at least \$15 billion in real estate cost-savings over a 10-year period, yet the cost estimate from the Congressional Budget Office (CBO) finds that this bill would increase spending by \$103 million in the 2013–2017 time period. There is little evidence that the bill will achieve the requirements it would place on federal agencies, as is likely since the CBO analysis concluded that any increase in the number of properties disposed under the expedited process established under the bill would be modest.¹

Also, the committee report cites a Government Accountability Office report indicating that McKinney-Vento screening at the Veterans Administration (VA) may add 2 years to the disposal process. But this same GAO report outlines a process of 7 months to determine whether a property is suitable for use in fighting homelessness. It's unclear why a seven-month process should result in two-year delays, but it seems unlikely that the McKinney-Vento process is the culprit. The report also cites additional problems faced by the VA that this bill does not address such as the need to conduct environmental cleanups and compliance with the National Historic Preservation Act.² Considering that McKinney-Vento screening can occur at the same time as environmental assessment and historic preservation review, it does not appear that the screening should be a major impediment to disposal of surplus property.

The GAO report also found that key stakeholders, including veterans groups, community members, state and local governments, historic preservation organizations, advocacy groups, and the public in general may have conflicting priorities for reuse of VA property.³ The committee reported bill does not offer remedies to help resolve these conflicting priorities, instead emphasizing maximum net proceeds to the federal government.⁴ But we have at our disposal models for better ways to address local concerns, even when they are conflicting, with the federal government's need to protect the taxpayer. According to a June 2006 GAO report on public benefit conveyances, properties disposed under the Base Realignment and Closure process used by the Department of Defense often involve the

¹ Congressional Budget Office, Cost Estimate: S 2178, Federal Real Property Management Reform Act of 2012 (Sept. 2012), p. 5.

² U.S. Government Accountability Office, Federal Real Property: Progress Made in Reducing Unneeded Property, but VA Needs Better Information to Make Further Reductions (Sept. 2008) (GAO-08-939), p. 33.

³ U.S. Government Accountability Office, Federal Real Property: Progress Made in Reducing Unneeded Property, but VA Needs Better Information to Make Further Reductions (Sept. 2008) (GAO-08-939), p. 36.

⁴ S 2178 as Reported (SIL12754) p. 40.

use of a local redevelopment authority (LRA).⁵ According to this report, the LRA acts as a single point of contact between the government and stakeholders in the community and takes into consideration community needs, possible reuse, environmental condition and consideration of homeless needs.

So, while I support the goal of disposing excess and surplus property, this bill will not accomplish that goal, and is likely to fall far short of its cost-cutting requirements. While failing at that goal, it sets an unwise precedent of waiving all existing public benefit conveyance laws for select properties to be conveyed under an expedited disposal program which would ignore the needs of local communities and stakeholders. We should focus our efforts on streamlining the federal real property disposal process in a way that considers the needs of local communities and stakeholders and that achieves real savings for the taxpayer.

CARL LEVIN.



⁵ U.S. Government Accountability Office, *Federal Real Property: Most Public Benefit Conveyances Used as Intended, but Opportunities Exist to Enhance Federal Oversight* (June 2006) (GAO-06-511), p. 10.