

DISPOSAL OF FEDERAL REAL PROPERTY: LEGISLATIVE PROPOSALS

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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DISPOSAL OF FEDERAL REAL PROPERTY: LEGISLATIVE PROPOSALS

WEDNESDAY, JULY 27, 2011

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:05 a.m., in room 2154, Rayburn House Office Building, Hon. Darrell E. Issa (chairman of the committee) presiding.

Present: Representatives Issa, Mica, Platts, Lankford, Amash, Gosar, Labrador, Kelly, Cummings, Towns, Maloney, Norton, Kucinich, Connolly, Quigley, and Murphy.

Staff present: Robert Borden, general counsel; Will L. Boyington, staff assistant; Lawrence J. Brady, staff director; Ashley H. Callen, counsel; John Cuaderes, deputy staff director; Adam P. Fromm, director of Member services and committee operations; Linda Good, chief clerk; Ryan Little, professional staff member; Justin LoFranco, deputy director of digital strategy; Rebecca Watkins, press secretary; Peter Warren, legislative policy director; Beverly Britton Fraser, minority counsel; Kevin Corbin, minority staff assistant; Ashley Etienne, minority director of communications; Jennifer Hoffman, minority press secretary; Carla Hultberg, minority chief clerk; and Mark Stephenson, minority senior policy advisor/legislative director.

Chairman ISSA. The hearing will come to order.

Gentlemen, thank you for being here today. We will do opening statements and then go to your testimony with all of you who have been promptly here.

The Oversight Committee's mission: We exist to secure two fundamental principles. First, Americans have a right to know that the money Washington takes from them is well-spent. And, second, Americans deserve an efficient, effective government that works for them.

Our duty on the Oversight and Government Reform Committee is to protect these rights. Our solemn responsibility is to hold government accountable to taxpayers, because taxpayers have a right to know what they get from their government. We will work tirelessly, in partnership with citizen watchdogs, to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy.

Today's hearing centers around the Federal Government's current holding of over 10,000 excess properties and the way we spend hundreds of millions of dollars annually just to maintain these facilities, many of them in poor condition. Congressional Research

Service says, by any measure, the Federal Government has approximately 14,000 too many buildings and structures and approximately 76,000 properties that the Office of Management and Budget say are underutilized.

Our committee, with jurisdiction over the disposal of these assets, takes seriously our responsibility. Additionally, we will take seriously the record of property disposal, both under BRAC for the military and civilian disposal, which has had an abysmal failure to recoup any significant dollars.

It is regrettable that we now have an administration that spends over \$1 billion per year to operate properties that are empty or unnecessary. It is more of interest to this committee that CBO's interpretation of the amount of money that is presently scored in the billions by this administration, as though it will happen, turns out to be anywhere from the millions or possibly—and I repeat, possibly—could actually score an additional loss to the Treasury in its disposal.

Making sure the American people continue to pay only for what we use—or pay only for what we use and stop paying for unused space is bipartisan. Republicans and Democrats on this dais are united in trying to dispose of property. Today, our witnesses are both Republicans and Democrats, each with good ideas of how we can do better next time.

Our committee is dedicated to hear all ideas and to recognize that if we keep doing what we have done in the past, we will simply have the same abysmal results, which is: no net savings to the Treasury; no net elimination; and, in many cases, assets which are more valuable being sold to the highest bidder being let to users of convenience, who ultimately would be better off receiving the money than receiving the housing.

This and other areas need to be looked at as in our jurisdiction.

Mr. Chaffetz, who chairs our National Security Subcommittee, has proposed a program that would incentivize agencies to use space efficiently and dispose of what is unneeded by letting agencies retain 20 percent of net proceeds of their sale while the Treasury would receive 80 percent for debt reduction.

Mr. Quigley, the ranking member on the Financial Services Subcommittee, has proposed allowing the GSA to more efficiently coordinate the sale of Federal properties and to establish a greater level of transparency for data on Federal real property holdings.

Additionally, Mr. Denham has taken his learning and experience in the State of California and has proposed a commission to identify and submit disposal recommendations to OMB that would be subject to congressional approval.

I look forward to all of these ideas and more. It is clear that business as usual must be behind us, not in front of us.

And, with that, I recognize the ranking member for his opening statement.

[The prepared statement of Chairman Darrell E. Issa follows:]

Chairman Darrell Issa Talking Points
 "Disposal of Federal Real Property: Legislative Proposals"
 July 27, 2011

- The federal government currently holds more than 10,000 excess properties and spends hundreds of millions of dollars annually to maintain them, according to the Congressional Research Service. By another measure, the federal government has approximately 14,000 too many buildings and structures and approximately 76,000 properties that the Office of Management and Budget says are under-utilized.
- As the Committee with jurisdiction over the disposal of these assets, our job is to ensure the executive branch disposes of these assets.
- The American people know that their government is too big, too costly, and too slow to reform. The size of government has become a major concern for the future health of our country. One way we must begin reducing the size of government is by eliminating the costs associated with unused and underutilized federal properties.
- The Obama Administration estimates that taxpayers spend over \$1 billion dollars per year to operate properties that are empty or unnecessary. Regrettably, federal law now makes it more difficult to eliminate this wasteful spending.
- In May, the President announced a plan to reduce the number of surplus government properties.
- While the President's goals are commendable, his proposals may have the opposite effect.
- At my request, earlier this year, the Congressional Budget Office reviewed President Obama's proposal. CBO says it could increase direct spending over 10 years while also increasing discretionary spending by as much as \$420 million over the next 5 years.
- Making sure that the American people do not continually pay the bills for unused space is an issue that Republicans and Democrats can agree on.
- Today, we will hear from our fellow lawmakers about their proposals to expedite the disposal of federal real property.
- Two of today's witnesses are fellow members of this Committee.

- Mr. Chaffetz – who chairs our national security subcommittee – has proposed a program that would incentivize agencies to use space efficiently and dispose of what is unneeded by letting agencies retain 20 percent of the net proceeds of a sale, while the Treasury would receive 80 percent for debt reduction.
- Mr. Quigley – the ranking member of our financial services subcommittee – has proposed allowing the GSA to more effectively coordinate the sale of federal properties and to establish a greater level of transparency for data on federal real property holdings.
- And we also welcome my fellow Californian, Mr. Denham who has proposed a commission to identify and submit disposition recommendations to OMB that would be subject to Congressional approval.

I look forward to hearing from today's witnesses, and working with the Ranking Member on a bipartisan basis to achieve real cuts to the amount American taxpayers are spending to keep and maintain un-used and under-used real properties.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. And I thank you for calling this hearing.

The efficient management of government real property has long been of interest to this committee, the Government Accountability Office, and the administration. While some improvements have been made over the last decade, much more remains to be done.

The Federal Government has a vast real-property portfolio of more than 900,000 buildings and structures, with a combined area of over 3 billion square feet. The administration recently estimated that 14,000 of these facilities were excess and 76,000 were underutilized, costing American taxpayers up to \$1.7 billion in maintenance costs every year.

Some have estimated that the sale of excess Federal properties might generate significant revenue—as much as \$15 billion. Personally, I am somewhat skeptical of these estimates. They rely on property values estimated using replacement value or the cost to build another similar structure rather than the more reliable appraisal method of using fair market value.

Nevertheless, improvements in Federal real-property management are clearly needed. In 2004, the previous administration, led by the General Services Administration and the Office of Management and Budget, created the Federal Real Property Council, which made significant progress in creating an accurate inventory of the government's property holdings.

The current administration has continued this effort. In June 2010, the President issued a memorandum directing OMB and Federal agencies to seek cost savings of \$3 billion by the end of fiscal year 2012 by increasing sales and reducing operating and maintenance costs for surplus properties. Earlier this year, the administration proposed legislation to create a commission to speed the disposal of unneeded, underutilized Federal property similar to the BRAC process used for military facilities.

Today, we are honored to have three distinguished Members of the House testifying on the first panel about bills they have introduced to improve the management of unneeded and underutilized Federal properties.

Representative Quigley's legislation would make improvements to help speed disposals, require greater transparency in the reporting on Federal property, allow agencies to retain the proceeds of property sales, and give GSA the authority to pay certain disposal costs on a reimbursable basis.

Mr. Denham's bill closely resembles the proposal put forward by the administration. And I understand he worked on these issues at the State level before coming to Congress.

Finally, Mr. Chaffetz's legislation would create a pilot program run by OMB to require that selected properties be sold for cash. Under this bill, OMB would be directed to find \$19 billion in sales proceeds over the life of the pilot program.

I look forward to hearing from all of our colleagues, as well as the witnesses on the second panel.

Finally, as we consider these various proposals, I hope we pay careful attention to the current rules allowing nonprofits and local and State governmental entities to obtain surplus Federal property at a discount. These narrowly constrained rules allow for such con-

veniences for the public's benefit. And although they represent only a small percentage of disposals, they are important to the entities that receive them and to the public.

With that, Mr. Chairman, I yield back and look forward to hearing from our witnesses.

[The prepared statement of Hon. Elijah E. Cummings follows:]

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Opening Statement Ranking Member Elijah E. Cummings

Hearing on "Disposal of Federal Real Property: Legislative Proposals"

July 27, 2011

Thank you, Mr. Chairman. The efficient management of federal real property has long been of interest to this Committee, the Government Accountability Office, and the Administration. While some improvements have been made over the last decade, much more remains to be done.

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Nevertheless, improvements in federal real property management are clearly needed.

In 2004, the previous Administration, led by the General Services Administration and the Office of Management and Budget, created the Federal Real Property Council, which made significant progress in creating an accurate inventory of the government's property holdings.

The current Administration has continued this effort. In June of 2010, the President issued a memorandum directing OMB and federal agencies to seek cost savings of \$3 billion by the end of fiscal year 2012 by increasing sales and reducing operating and maintenance costs for surplus properties.

Earlier this year, the Administration proposed legislation to create a Commission to speed the disposal of unneeded and underutilized federal property, similar to the BRAC process used for military facilities.

Today, we are honored to have three Members of the House testifying on the first panel about bills they have introduced to improve the management of unneeded and underutilized federal properties.

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Finally, as we consider these various proposals, I hope we pay careful attention to the current rules allowing nonprofits and local and state governmental entities to obtain surplus federal property at a discount. These narrowly constrained rules allow for such conveyances for the public's benefit, and although they represent only a small percentage of disposals, they are important to the entities that receive them and to the public.

Thank you Mr. Chairman.

Chairman ISSA. I thank the ranking member.

All Members will have 7 days to submit their opening statements and extraneous material for the record.

With that, we now go to our first panel of witnesses. The Honorable Mike Quigley, a member of the committee, represents the Fifth District of the State of Illinois. The Honorable Jason Chaffetz represents the Third District of the State of Utah.

Since you are both members of the committee, you know we don't swear members of the committee.

So, with that, Mr. Quigley, I would love to have your opening statement, which, by the way, is the only way you can guarantee an opening statement over and above the chairman and ranking member. I think it was very clever for both of you to get your opening statements.

The gentleman is recognized.

STATEMENTS OF HON. MIKE QUIGLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS; HON. JASON CHAFFETZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH; AND HON. JEFF DENHAM, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

STATEMENT OF HON. MIKE QUIGLEY

Mr. QUIGLEY. You caught us.

I want to thank the chairman and the ranking member for holding this hearing, and the panel for joining me in this work on this vital issue.

As you suggested, the Federal Government is the largest property owner in the world, with an inventory over 900,000 buildings and structures and 41 million acres of land. Yet we waste billions of dollars each year maintaining properties we no longer need. The Federal Government currently maintains 14,000 buildings and structures deemed excess and over 76,000 properties identified as underutilized.

In fiscal year 2009, these underutilized buildings cost us \$1.7 billion to operate, and we spent hundreds of millions more on buildings we simply don't need. The GAO has continuously found that many properties are no longer relevant to their agencies' missions and that agencies could do a better job of identifying and disposing of unneeded properties. So why are we paying billions to sit on thousands of unneeded properties?

To address these problems, I have introduced H.R. 1205, the Federal Real Property Disposal Enhancement Act. The bill addresses three major hurdles to disposing of thousands of unneeded Federal properties and generating much-needed revenue.

First, administrative burdens. Agencies are often deterred from disposing of unneeded property due to a variety of screening processes, which take up to 2 years and cost millions in maintenance during the process. My bill establishes a pilot program that would exempt certain properties unlikely to be used as homeless shelters under McKinney-Vento from a requirement to screen properties for homeless use before disposal.

Second, budgetary disincentives. Currently, agencies avoid disposing of excess property because of the high upfront cost of dis-

posal. Paying for environmental cleanup can cost millions. My bill would allow all agencies to retain the proceeds from the disposition of the property and use those funds, as authorized by Congress, to maintain, repair, and dispose of other excess properties. Any funds not used to repair and dispose of property will be paid back to the Treasury for debt reduction.

The third and final obstacle is the lack of transparency and oversight of Federal property. All Federal property information is currently maintained in an extensive data base managed by GSA, but this information is not available to the public, Federal workers, or most congressional staff. Our bill would require GSA to submit an annual report to Congress that includes information on the number, value, and maintenance costs of all Federal properties. This information would also be made available to the public at no cost in an online data base.

The transparency my bill will provide is absolutely imperative because, as things stand today, we are flying blind.

Let me give you just one example. When I learned about all these valuable excess properties, my staff decided to go take a look at a few of them in my home State of Illinois. After spending 8 months going back and forth with various agencies to get the information, we visited a property that was reportedly worth over \$8 million and cost more than \$80,000 per year to maintain. The USDA data base said the property was in excellent condition, but the reality was quite different. The \$8 million storage facility was in shambles, complete with peeling paint and deteriorated siding, the exterior overtaken by vegetation and the interior looted by vandals. And so it was with scores of other buildings on the site.

What the USDA spreadsheet represented as in excellent shape and receiving thousands annually in maintenance was, in fact, a dilapidated mess. As my staff learned when we toured the site, no money had been spent on maintaining these structures since the mid-1990's. The USDA explained that a formula was used to arrive at the estimates for annual maintenance costs and replacement value but that the numbers had no relation to reality.

Clearly, there is a serious disconnect between what is on our books and the reality on the ground. We can't possibly know what our assets are worth or make a plan to capitalize on them without accurate data. Without better, more transparent data, we are flying blind.

I thank the chair and my colleagues again for their work on this issue. I look forward to continuing to bring transparency to our Federal properties, selling what we don't need and generating revenue when we need it most.

Thank you.

[The prepared statement of Hon. Mike Quigley follows:]

**Testimony by Congressman Mike Quigley
Oversight and Government Reform Committee Hearing on: "Disposal of Federal Real
Property: Legislative Proposals."
Wednesday, July 27, 2011**

I want to begin by thanking Chairman Issa and Ranking Member Cummings for holding today's hearing, and for inviting me to testify on behalf of my bill, H.R. 1205. I also want to commend my colleagues, Congressman Chaffetz and Congressman Denham, for their work on this vital issue.

The federal government is the largest property owner in the world, with an inventory of over 900,000 buildings and structures and 41 million acres of land. Yet we waste billions of tax dollars each year maintaining properties we no longer need. The federal government currently maintains 14,000 buildings and structures deemed excess, and over 76,000 properties identified as underutilized. In fiscal year 2009, these underutilized buildings cost us \$1.7 billion to operate annually, and we spent hundreds of millions more on properties we simply do not need. The Government Accountability Office has continuously found that many properties are no longer relevant to their agencies' missions, and that agencies could do a better job of identifying and disposing of unneeded properties.

So why are we paying billions to sit on thousands of unneeded properties? To address this problem I've introduced H.R. 1205, the Federal Real Properties Disposal Enhancement Act. The bill addresses three major hurdles to disposing thousands of unneeded federal properties and generating much-needed revenue.

First, administrative burdens:

Agencies are often deterred from disposing of unneeded property due to a variety of screening processes which can take up to two years and cost millions in maintenance during the process. My bill establishes a pilot program that would exempt certain properties, unlikely to be used as homeless shelters under McKinney-Vento, from a requirement to screen properties for homeless use before disposal.

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Currently agencies avoid disposing of excess property because of the high upfront costs of disposal. Paying for environmental cleanup can cost millions. My bill would allow all agencies to retain the proceeds from the disposition of property, and use those funds, as authorized by Congress, to maintain, repair and dispose of other excess properties. Any funds not used to prepare and dispose of property would be paid back to the Treasury for debt reduction.

The third and final obstacle is the lack of transparency and oversight of federal property.

All federal property information is currently maintained in an extensive database, managed by GSA. But this information is not available to the public, federal workers, or most congressional staff. My bill would require GSA to submit an annual report to Congress that includes information on the number, value, and maintenance costs of all federal properties. This information will also be made available to the public at no cost in an online database.

The transparency my bill will provide is absolutely imperative; because as things stand today, we are flying blind. Let me give you just one example. When I learned about all these valuable excess properties, my staff decided to go take a look at a few of them in my home state of Illinois. After spending eight months going back and forth with various agencies to get the information, we visited a property that was reportedly worth over \$8 million and cost more than \$80,000 per year to maintain. The USDA database said the property was in excellent condition. But, the reality was quite different.

The \$8 million storage facility was in shambles, complete with peeling paint and deteriorated siding; the exterior overtaken by vegetation and the interior looted by vandals. And so it was with scores of other buildings on the site: What the USDA spreadsheet represented as in excellent shape and receiving thousands annually in maintenance was in fact a dilapidated mess. As my staff learned when they toured the site, no money had been spent on maintaining these structures since the mid-1990s. The USDA explained that a formula was used to arrive at the estimates for annual maintenance costs and replacement value, but that the numbers had no relation to reality.

Clearly there is a serious disconnect between what is on our books and the reality on the ground. We can't possibly know what our assets are worth or make a plan to capitalize on them without accurate data. Without better, more transparent data, we are flying blind. I thank the chair and my colleagues again for their work on this issue. I look forward to continuing to bring transparency to our federal properties, selling what we don't need and generating revenue when we need it most.

Chairman ISSA. Thank you.
Mr. Chaffetz.

STATEMENT OF HON. JASON CHAFFETZ

Mr. CHAFFETZ. Thank you to Chairman Issa and Ranking Member Cummings for addressing this important topic, and other members of the committee.

I appreciate being here and allowing me to testify on behalf of my bill, H.R. 665, the Excess Federal Building and Property Disposal Act of 2011. Today's topic is important, and I look forward to working with the committee to find solutions to excess-property disposal issues facing our country.

The Federal Government is the largest single holder of real property in the United States. The Federal Government owns more than 900,000 buildings and structures. Republican and Democratic administrations and various government entities have identified many of these properties as excess and underutilized. Yet tens of thousands of unneeded properties remain in the Federal Government's possession today. This is not acceptable.

Congress must work to streamline the Federal Government's real-property management strategy. President Bush and President Obama both identified excess properties and structures that, if sold, could generate billions in revenue and savings. The fiscal commission said, "Federal agencies operate and maintain more real-property assets than necessary, often raising costs to the taxpayer."

The Government Accountability Office [GAO], estimated that the Federal Government holds underutilized properties that cost nearly \$1.7 billion annually to operate. More recently, the Office of Management and Budget controller, Daniel Werfel, testified that the government controls 14,000 excess buildings and 76,000 underutilized properties.

Clearly, the Federal Government's disposal track record is subpar. In fact, since 2003, and more recently in 2011, the GAO designated Federal real-property management as a high-risk area of the Federal Government.

The status quo is no longer an option. The fiscal challenges facing this country are deep and severe. Effective Federal property management requires unique opportunities for the Federal Government to right-size its real-estate portfolio, reduce costs, and achieve savings through public sale of unneeded properties.

The current disposal process is flawed for two reasons. First, agencies lack the necessary incentives to initiate the disposal process. Second, a myriad of requirements throughout the process prevent properties from even being offered for sale.

Under current law, the disposal process begins when a Federal agency reports an excess property to the General Services Administration [GSA]. Agencies lack the know-how, funds, and incentives to simply report these excess properties to GSA. For most agencies, doing nothing is more economical than engaging in the disposal process.

The next step in the disposal process is laden with obstacles and limitations. Current law and regulations handcuff GSA's disposal abilities. Excess properties first must be offered to other Federal agencies. In the absence of other Federal needs, surplus properties

must then be made available for other uses, which includes homeless shelters, parks and recreation facilities, and State and local government use. Once those requirements have been exhausted, buildings are finally then offered to the public for sale.

Taxpayers lose under this current disposal process. A variety of alternative-use and conveyance requirements prevent properties from being sold at fair market value. According to GAO, these requirements denote that, "GSA's underutilized or excess properties may remain in the agency's possession for years and continue to accumulate maintenance and operations costs."

My bill would establish a pilot program designed to expedite the selling of unneeded Federal property. The pilot program would be managed by the director of OMB, which is in line with the 2007 GAO report in which GAO recommended that OMB assist agencies in the disposal process. The bill establishes an aggressive disposal goal that would require OMB and others to effectively and efficiently identify and dispose of unneeded properties.

The bill provides Federal property managers with tools designed to maximize disposals and taxpayer returns.

The first tool provides agencies with incentives to engage in the disposal process. By directing 20 percent of the proceeds to agencies, agencies are empowered to quickly identify and report excess properties. The other 80 percent would be used for debt reduction, something this country desperately needs.

Second, properties considered under the pilot program are not subject to the onerous disposal provisions described earlier. Once a property is identified for disposal, the property would be immediately eligible for public sale. Property disposed under the pilot program is exempt from normal transfer requirements, public-use conveyance requirements, and other no-cost conveyance provisions.

Finally, by empowering OMB, GSA, and other Federal agencies with the tools provided in the Excess Federal Building and Property Disposal Act, the Federal Government can finally rid itself of deadweight and demonstrate to the American public that Congress is serious about streamlining government and becoming more fiscally responsible.

I thank the committee for allowing me this opportunity on this important subject, and I yield back.

[The prepared statement of Hon. Jason Chaffetz follows:]

Testimony by Representative Jason Chaffetz
House Committee on Oversight and Government Reform
Disposal of Federal Real Property: Legislative Proposals
July 27, 2011

Thank you Chairman Issa, Ranking Member Cummings, and my colleagues on the Committee for allowing me to testify on behalf of my bill, HR 665, the Excess Federal Building and Property Disposal Act of 2011. Today's topic is important and I look forward to working with the Committee in finding solutions to the excess property disposal issues facing our country.

The federal government is the largest single holder of real property in the United States. The federal government owns more than 900,000 buildings and structures. Republican and Democratic administrations and various government entities have identified many of these properties as excess and underutilized; yet, tens of thousands of unneeded properties remain in our possession today. This is not acceptable. Congress must work to streamline the federal government's real property management strategy.

President Bush and President Obama both identified excess properties and structures that, if sold, could generate billions in revenues and savings. The Fiscal Commission said "federal agencies operate and maintain more real property assets than necessary, often raising costs to the taxpayer." The Government Accountability Office ("GAO") estimated that the federal government holds underutilized properties that cost nearly \$1.7 billion annually to operate. More recently, Office of Management and Budget Comptroller Daniel Werfel testified that the government controls 14,000 excess buildings and 76,000 underutilized properties.

Clearly, the federal government's disposal track record is subpar. In fact, since 2003, and more recently in 2011, GAO designated federal real property management as a "high-risk" area of the federal government.

The status quo is no longer an option. The fiscal challenges facing this country are deep and severe. Effective federal property management offers unique opportunities for the federal government to right-size its real estate portfolio, reduce costs, and achieve savings through public sale of unneeded properties.

The current disposal process is flawed for two reasons. First, agencies lack the necessary incentives to initiate the disposal process. Second, a myriad of requirements throughout the process prevent properties from even being offered for sale.

Under current law, the disposal process begins when a federal agency reports an excess property to the General Service Administration ("GSA"). Agencies lack the knowhow, funds, and incentives to simply report these excess properties to GSA. For most agencies, doing nothing is more economical than engaging in the disposal process.

The next step in the disposal process is laden with obstacles and limitations. Current law and regulations handcuff GSA's disposal abilities. Excess properties first must be offered to other federal agencies. In the absence of other federal needs, surplus properties must then be made available for other uses, which includes homeless shelters, parks and recreation facilities, and state and local government use. Once these requirements have been exhausted, buildings are then finally offered to the public for sale.

Taxpayers lose under this current disposal process. A variety of alternative-use and conveyance requirements prevent properties from being sold for fair market value. According to GAO, these requirements denote that "GSA's underutilized or excess properties may remain in an agency's possession for years and continue to accumulate maintenance and operations costs".

My bill would establish a pilot program designed to expedite the selling of unneeded federal property. The pilot program would be managed by the Director of the Office of Management and Budget ("OMB") – which is in line with a 2007 GAO report, in which GAO recommended that OMB assist agencies in the disposal process.

The bill establishes an aggressive disposal goal that would require OMB and others to effectively and efficiently identify and dispose unneeded properties. The bill provides federal property managers with tools designed to maximize disposals and taxpayer returns.

The first tool provides agencies with incentives to engage in the disposal process. By directing 20% of the proceeds to agencies, agencies are empowered to quickly identify and report excess properties. The other 80% would be used for debt reduction – something this government desperately needs.

Second, properties considered under the pilot program are not subjected to the onerous disposal provisions described earlier. Once a property is identified for disposal, the property would immediately be eligible for public sale. Property disposed under the pilot program is exempt from normal transfer requirements, public-use conveyance requirements, and other no-cost conveyance provisions.

Finally, by empowering OMB, GSA, and other federal agencies with the tools provided in the Excess Federal Building and Property Disposal Act, the federal government can finally rid itself of dead weight and demonstrate to the American public that Congress is serious about streamlining government and becoming fiscally responsible.

Chairman ISSA. Thank you, Mr. Chaffetz.
Mr. Denham.

STATEMENT OF HON. JEFF DENHAM

Mr. DENHAM. Thank you, Mr. Chair. I appreciate you holding this hearing today. I commend the gentlemen on this committee and my fellow colleagues on this panel for working toward real-property reform.

In May, I introduced H.R. 1734, the Civilian Property Realignment Act, to establish a civilian BRAC-like commission to help shed waste in the management of Federal buildings and properties. I have been pleased to work closely with the administration in this effort, as they similarly released a proposal along with a list of 14,000 properties already in the disposal process. By OMB's estimates, our proposals could save the taxpayer more than \$15 billion. I actually believe that number is much, much higher.

I believe our efforts may truly produce a bipartisan solution to significantly alter the manner in which Federal property is managed. As a member of the Committee on Transportation and Infrastructure, I am fortunate enough to chair the Subcommittee on Economic Development, Public Buildings, and Emergency Management. This subcommittee has jurisdiction over Federal buildings and improved grounds generally, and we have made significant progress in bringing this issue to the public by holding several public hearings and a subcommittee markup on my legislation.

I first proposed a civilian BRAC commission at our subcommittee's first hearing in February, and the President proposed a commission in his 2012 budget. It was clear then, as it is now, that just having a fire sale of surplus property in a bad real-estate market is not going to generate significant savings for the taxpayer. Instead, redeveloping, consolidating, or selling certain high-value assets can unleash huge cost savings for taxpayers. For example, it makes little sense for a few hundred Federal workers to be sitting in an underutilized asset that could generate hundreds of millions of dollars if redeveloped or sold.

As I have often stated and continue to maintain, to achieve significant savings, any solution must incorporate these key principles: First, it must consolidate the footprint of Federal real estate. It must house more Federal employees in less overall space. It must reduce our reliance on leased space for long-term requirements. It must sell or redevelop high-value assets that are underutilized or too valuable for housing Federal employees. And we must dispose of surplus property much, much quicker.

Disposal is part of the process of streamlining; that process is important. CBO mentioned in its letter to this committee about previous failures in the disposal process. We have seen high-value property, like Governors Island in New York and the Presidio in San Francisco, fall by the wayside, when significant taxpayer savings could have been realized. The commission will be tasked with creating value out of excess and surplus properties so the taxpayer isn't continually shortchanged.

However, to truly reform our asset portfolio in a way that generates significant and lasting savings to the public, we must ensure that government also takes steps to realign and consolidate its foot-

print. And we must ensure—agencies are sitting on valuable assets that would give the taxpayers a greater return if sold or redeveloped.

We have an opportunity to achieve comprehensive reform, and I look forward to working with my colleagues to that end. I doubt most government agencies would recognize a good real-estate opportunity if it stared them in the face. It is important that we get this right.

After receiving input from experts and key stakeholders, one thing became abundantly clear: The commission will need to leverage the expertise and market knowledge of the private sector on behalf of the taxpayer in order to achieve real savings. I believe this is an important point, and I look forward to hearing the testimony of the second panel to see if they agree that Congress must leverage the private-sector expertise.

We also must ensure this process incorporates the right incentives and tools to maximize the return to taxpayers and require that agencies not conduct business as usual. That is why a process that includes an independent commission similar to BRAC is needed. Real savings will require a commission to look across government and identify ways to unlock the value in our properties without turf battles and red tape stalling the process.

I believe the potential to save billions of dollars is real, and our challenge is to create a system where it will happen. Again, I thank the chairman for holding this hearing today and inviting me to testify. I hope that our two committees can work together toward a solution that delivers real savings to the American taxpayer.

[The prepared statement of Mr. Denham follows:]

**Remarks by the Honorable Jeff Denham, Chairman
Subcommittee on Economic Development, Public Buildings
and Emergency Management**

As made before

**The Committee on Oversight and Government Reform:
Hearing on
“Disposal of Federal Real Property: Legislative Proposals”**

Wednesday, June 27, 2011

- First let me thank the Chairman of this Committee, Mr. Issa, for holding this hearing today and inviting me to participate as a witness.
- I commend the gentleman, this committee, and my fellow colleagues on this panel for working toward real property reform.
- In May, I introduced H.R. 1734, the Civilian Property Realignment Act to establish a civilian BRAC-like commission to help shed waste in the management of federal buildings and properties.
- I have been pleased to work closely with the administration in this effort as they similarly released a proposal, along with a list of 14,000 properties already in the disposal process.

- By OMB's estimates, our proposals could save the taxpayer more than \$15 billion.
- I believe our efforts may truly produce a bipartisan solution to significantly alter the manner in which federal property is managed.
- As a member of the Committee on Transportation and Infrastructure, I am fortunate enough to chair the Subcommittee on Economic Development, Public Buildings, and Emergency Management.
- This subcommittee has jurisdiction over federal buildings and improved grounds, generally, and we have made significant progress in bringing this issue to the public by holding several public hearings and a subcommittee markup on my legislation.
- I first proposed a civilian BRAC commission at our subcommittee's first hearing in February and the president proposed a commission in his 2012 budget.

- It was clear then as it is now that just having a fire sale of surplus property in a bad real estate market is not going to generate significant savings for the taxpayer.
- Instead redeveloping, consolidating or selling certain high-value assets can unleash huge cost savings for taxpayers.
- For example, it makes little sense for a few hundred federal workers to be sitting on an under-utilized asset that could generate hundreds of millions of dollars if redeveloped or sold.
- As I have often stated and continue to maintain, to achieve significant savings, any solution must incorporate these key principles:
 - It must, consolidate the footprint of federal real estate;
 - House more federal employees in less overall space;
 - It must, reduce our reliance on leased space for long-term requirements;
 - Sell or redevelop high value assets that are underutilized or too valuable for housing federal employees; and
 - Dispose of surplus property more quickly.

- Disposal is part of the process and streamlining that process is important.
- CBO mentioned in its letter to this committee about previous failures in the disposal process.
- We have seen high value properties like Governor's Island in New York, and the Presidio in San Francisco fall by the wayside when significant taxpayer savings could have been realized.
- The commission will be tasked with creating value out of excess and surplus properties so the taxpayer isn't continually short changed.
- However, to truly reform our asset portfolio in a way that generates significant and lasting savings to the public, we must ensure that the government also takes steps to realign and consolidate its footprint.
- And, we must ensure agencies aren't sitting on valuable assets that would give the taxpayer a greater return if sold or redeveloped.

- We have an opportunity to achieve comprehensive reform and I look forward to working with my colleagues to that end.
- I doubt most government agencies would recognize a good real estate opportunity if it stared them in the face.
- It is important that we get this right.
- After receiving input from experts and key stakeholders one thing became abundantly clear.
- The commission will need to leverage the expertise and market knowledge of the private sector on behalf of the taxpayer if we are to achieve real savings.
- I believe this is an important point, and I look forward to hearing the testimony of the second panel to see if they agree that Congress must leverage private sector expertise.
- We also must ensure this process incorporates the right incentives and tools to maximize the return to taxpayers and require that agencies not conduct business as usual.

- That is why a process that includes an independent commission, similar to BRAC, is needed.
- Real savings will require a commission to look across government and identify ways to unlock the value in our properties – without turf battles and red tape stalling the process.
- I believe the potential to save billions of dollars is real; and our challenge is to create system where it will happen.
- Again, I thank the Chairman for holding this hearing today and inviting me to testify.
- I look forward to the testimony of my colleagues on their efforts to overhaul real property management, and I hope that our two committees can work together toward a solution that delivers real savings to the American taxpayer.

Chairman ISSA. Thank you.

I want to thank all of our witnesses. It is not a normal policy to ask questions of Members, but would you take a short series if people have specific questions?

Also, Mr. Denham, you are invited to sit on the dais, if you would like to, for the second panel. Our rules allow for you to sit. You will be recognized last, but, as you see, that won't be all that late.

If I could ask you just two short questions.

All of your bills deal in some small way with the homeless. Each of them seems to reduce the ultimate benefit to the homeless. Hopefully, each of you, as you are looking at your bills and bringing them before the committee, will recognize that it is unlikely that any bill will leave this committee if there is not an equivalent benefit to homeless in each of your bills.

If any of you would like to comment on whether you think you have already achieved that or whether you can make amendments to ensure that the ultimate benefit that has historically occurred, which is about 2 percent of liquidations, would be retained in your bills.

Mr. Quigley.

Mr. QUIGLEY. Well, I think it is a fair question. My bill establishes a program that would exempt certain properties that are very unlikely to be used for the homeless to go through that screening process. But we are open to any amendments and suggestions as to make sure that we cover all the bases and protect those.

Chairman ISSA. Mr. Chaffetz.

Mr. CHAFFETZ. I would say a very similar thing. This takes the 14,000 properties that have previously been identified. I would hope that if the homeless program—that would be accelerated under that, that those properties would be identified and accelerated. But I am open to suggestions from Members on either side of the aisle about how we can make sure that we are helping in that regard.

Chairman ISSA. Mr. Denham.

Mr. DENHAM. This is not something we have been negotiating with the administration on, but, certainly, we would be open to looking at amendments.

The goal of this is to save taxpayer dollars. We want to get rid of as much red tape as possible so that we can actually sell these properties. I mean, I think CBO has a great point. Do you really have evidence that you are going to sell properties or not? And the more red tape that we have out there, the more things that we hold up the reason for selling these properties, the less savings we are going to see for taxpayers.

So, you know, again, our goal is to consolidate, to make sure we are getting the right use for the taxpayers on this, and to sell off as much as possible during a huge debt crisis.

Chairman ISSA. Well, I appreciate that.

And I won't phrase the next one as a question, but, from the standpoint of the committee staff, we are also concerned that we are going to have to add to one or all of your bills, as we go through the process, some equally more efficient way to ensure that if property has real value to another sector of government, that there be an efficient way to do it.

And I know each of you is trying to deal with the legacy of the BRAC process, where the FBI takes one building and NSA takes another, and pretty soon you have a hodgepodge of things that can't be sold.

But there is, in fact, a legitimate concern from within government that we have an efficient way for a willing buyer, willing seller, if they happen to both be government, to do it efficiently. And as you look at your legislation, that is something you may want to, sort of, add as something that the committee can see.

Yes, Mr. Denham.

Mr. DENHAM. And we actually have that addressed by consolidating the leasing authority. What we saw with the SEC was beyond a mistake; what they did was illegal. We have to make sure that not only do they give up their leasing authority but that we consolidate our leasing authority between all agencies, have it go under one agency, and be able to hold that agency accountable. So that if there are other government uses, if you have two agencies that can occupy the same building, then we are doing that, that we are making the best decisions based on one agency that can oversee all of that.

Mr. QUIGLEY. And I do not believe there should be any pride of ownership here. If there is more than one bill here, we should all work together toward putting together the final best product to serve the use here.

Toward that end, though, I do think the element in my legislation of putting everything online will help. I think other governments and people outside government don't even know what is available. So that centerpiece of information helps us from flying blind and moves forward more appropriately.

Mr. CHAFFETZ. I would just add that we are relying upon the executive branch that has already identified 14,000 properties as excess, that they have gone through a lot of these gyrations and assessments along the way, and these are truly excess properties.

Chairman ISSA. Thank you.

And, Mr. Cummings, you had something short also?

Mr. CUMMINGS. Yes, thank you, Mr. Chairman.

First of all, Mr. Chairman, I want to thank you for raising the question with regard to homelessness. It is a tremendous problem in our country.

Just yesterday, the Pew Trust released a report that showed that, between 2005 and 2009, Americans took a real hit with regard to their wealth. As a matter of fact, Hispanics' wealth decreased by some 60-some percent, I think it was 66 percent; African Americans, more than 50 percent; and others, substantial. A lot of people are ending up who never thought that they would be in a homeless shelter or walking the streets without a home, they are there today.

And so, Mr. Chairman, we have gotten a letter from the homeless advocates dated July 26, 2011. It is addressed to you and me. And I would ask that it be admitted into the record.

Chairman ISSA. Without objection.

[The information referred to follows:]

July 26, 2011

The Honorable Darrell E. Issa
Chairman, Oversight and Government
Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Todd Platts
Chairman, Subcommittee on Government
Organization, Efficiency, and Financial
Management
Oversight and Government Reform
Committee
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Elijah Cummings
Ranking Member, Oversight and Government
Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Edolphus Towns
Ranking Member, Subcommittee on
Government Organization, Efficiency, and
Financial Management
Oversight and Government Reform
Committee
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Issa, Chairman Platts, Ranking Member Cummings and Ranking Member Towns:

The undersigned are national organizations that advocate for policies to prevent and eliminate homelessness. We are writing with regard to the Committee's upcoming hearing on federal surplus property disposal. Federal surplus properties obtained through Title V of the McKinney-Vento Homeless Assistance Act of 1987 have proved very valuable to homeless people, serving 2.4 million people per year through emergency and transitional housing, job training, and other services.

For years, we have worked with the federal government to improve federal property disposal without harming homeless people. In 2009, Congress affirmed its commitment to reducing homelessness by passing the HEARTH Act, which reauthorized the McKinney-Vento Act and increased homeless prevention resources. In 2010, the federal government also established a forward-looking plan to end homelessness, outlined in *Opening Doors: The Federal Strategic Plan to End Homelessness*. We believe that any property disposal bill supported by the Committee should work in conjunction with these efforts, not weaken them.

In their current forms, property disposal bills H.R. 665 and H.R. 1734 pose serious concerns for homeless service providers. For example, unlike the Base Realignment and Closure (BRAC) process, the bills do not require the Civilian Property Realignment Board to involve homeless service providers in the decision-making process. They also contain certain timelines that are too short for homeless service providers to identify appropriate properties. Additionally, a majority of board members are required to consider property for homeless services use. This requirement is unduly burdensome and would significantly reduce the likelihood that homeless service providers' needs would be considered. Moreover, the OMB proposal, on which these bills are modeled, would not even save money for the federal government—the Congressional

Budget Office estimates that it would cost more money to implement, via the creation of a new government bureaucracy, than the government would save by disposing of property.

In contrast, H.R. 1205 would have a more neutral impact on the Title V process, and may indeed serve as a vehicle for additional streamlining measures that would improve access to the program. Although it creates a pilot program that exempts certain national security or uninhabitable properties from Title V, these are not assets with great potential for use by homeless service providers. Because this proposal narrowly targets such a specific set of properties for disposal, and would sunset in just over one year, we do not oppose H.R. 1205.

Our goal is to preserve the ability of homeless service providers to access and productively use appropriate surplus properties to provide housing and supportive services to homeless people. This will help attain the goal of ending homelessness, as outlined in the federal Plan.

We look forward to working with the Committee and the Administration to develop a process that both serves homeless people and helps the federal government dispose of properties in a more streamlined fashion. If you have questions or would like more information, please do not hesitate to contact Jeremy Rosen, Policy Director of the National Law Center on Homelessness and Poverty at (202) 638-2535 or jrosen@nlchp.org.

Thank you.

Sincerely,

Covenant House International
 District Alliance for Safe Housing
 Family Promise
 Give US Your Poor: The Campaign to End Homelessness
 Horizons for Homeless Children
 National AIDS Housing Coalition
 National Association for the Education of Homeless Children and Youth
 National Center on Family Homelessness
 National Coalition for the Homeless
 National Health Care for the Homeless Council
 National Law Center on Homelessness and Poverty
 National Low Income Housing Coalition
 National Network for Youth
 Partnering for Change
 Pathways, Inc.
 Western Regional Advocacy Project

Chairman ISSA. And we will work on a joint response.

Mr. CUMMINGS. Thank you very much.

There is one thing I just want to read from this, so that our guests will be aware. In this letter, it says, "In their current forms, property disposal bills H.R. 665 and H.R. 1734 pose serious concerns for homeless service providers. For example, unlike the Base Realignment and Closure process, the bills do not require the civilian property realignment boards involve homeless service providers in the decisionmaking process. They also contain certain timelines that are too short for homeless service providers to identify appropriate properties. Additionally, a majority of the board members are required to consider property for homeless service use. This requirement is unduly burdensome and would significantly reduce the likelihood that homeless service providers' needs would be considered." And I hope that you all will take that into consideration.

With that, Mr. Chairman, I yield back.

Chairman ISSA. I thank the gentleman.

We will take a short recess to set up for our second panel.

[Recess.]

Mr. KELLY [presiding]. The committee will come back to order, please.

At this time, we are going to recognize the second panel of witnesses. Ms. Theresa Gullo is here. She is the deputy director, assistant director of the Budget Analysis Division for the Congressional Budget Office. Mr. David Foley is the deputy commissioner of the Public Building Service for the U.S. General Services Administration. Mrs. Maria Foscarinis is the executive director of the National Law Center on Homelessness and Poverty. And Mr. F. Joseph Moravec is the former commissioner of the Public Buildings Service for the U.S. General Services Administration.

Thank you all for being here.

Pursuant to committee rules, all witnesses will be sworn in before they testify, so if you would please rise and raise your right hands.

[Witnesses sworn.]

Mr. KELLY. And let the record show that all witnesses answered in the affirmative.

Thank you, and please be seated.

Now, in order to allow time for discussion, please, if you could, limit your testimony to 5 minutes. And your entire written statement will be part of the record.

Ms. Gullo, if you would, please.

STATEMENTS OF THERESA GULLO, DEPUTY ASSISTANT DIRECTOR, BUDGET ANALYSIS DIVISION, CONGRESSIONAL BUDGET OFFICE; DAVID FOLEY, DEPUTY COMMISSIONER, PUBLIC BUILDINGS SERVICE, U.S. GENERAL SERVICES ADMINISTRATION; MARIA FOSCARINIS, EXECUTIVE DIRECTOR, NATIONAL LAW CENTER ON HOMELESSNESS AND POVERTY; F. JOSEPH MORAVEC, FORMER COMMISSIONER, PUBLIC BUILDINGS ADMINISTRATION, U.S. GENERAL SERVICES ADMINISTRATION

STATEMENT OF THERESA GULLO

Ms. GULLO. Thank you, Congressman Kelly, Congressman Cummings, other members of the committee. Thank you for inviting me here to discuss CBO's analysis of the President's proposal to dispose of civilian real property. I will also offer you some thoughts about other actions you might consider to increase the proceeds from property sales.

Under the President's proposal, an independent board would expedite the process of identifying unneeded property and present recommendations for disposal. Unless the Congress disapproves, the administration would implement those recommendations and agencies would be allowed to retain and spend some of the proceeds from sales.

CBO concludes that this proposal would induce some agencies to sell property that would not be sold under current law and bring in a modest amount of additional receipts. But the proposal would allow the spending of those receipts and, also, of some of the receipts that will be collected but not spent under current law. The net result, CBO estimates, would be an increase of about \$60 million in direct spending over the next 10 years.

The proposal also would result in additional discretionary spending of about \$400 million over the next 5 years, assuming future appropriations were provided to implement the program. Finally, some savings in maintenance costs would probably accrue as the stock of properties declined, but they would be realized only if future appropriations were reduced.

CBO's conclusions are based on the experience of the Base Realignment and Closure program, an analysis of the stock of unneeded properties, and on the outcome of previous efforts.

The BRAC program, upon which the President's proposal is based, was not structured to maximize the return from selling unneeded assets. In fact, less than \$2 billion from three sales have been collected since the process began in the 1980's. BRAC's goal is to consolidate operations and reduce O&M expenditures. It has undoubtedly led to such savings, although they are very hard to identify precisely.

In addition, previous attempts to sell civilian property have had mixed results. Several high-profile attempts, including Governors Island in New York, the Presidio in San Francisco, and the old Chicago Main Post Office, took years to complete and did not result in anywhere close to the receipts initially expected.

The proposed civilian board would have goals similar to BRAC's, but it would not offer many agencies sufficient new financial incentives to part with valuable properties. Some agencies that manage

large stocks of real property can already retain and spend the proceeds from the sale of excess properties, so the President's proposal would not offer an incentive for them to increase the number or pace of sales. Moreover, some have the authority under current law to enter into other types of arrangements, such as enhanced-use leases, which often prove more lucrative for them.

Similar property-holding—smaller, I should say, property-holding agencies would probably consider the opportunity to retain proceeds as an incentive to sell additional properties, and those sales would bring in more receipts. But because agencies would be able to spend some of the receipts that will accrue to the Treasury under current law, the net impact would be a cost.

Part of the problem is that much of the property identified as unneeded does not appear to be particularly valuable. The administration recently released information about 12,000 unneeded Federal buildings and structures. CBO reviewed that information and concluded that gaining billions of dollars from their disposal is unlikely. Most of the property is either owned by the Defense Department and not covered by the proposal; is already in the process of being disposed of under current law, largely through demolition; or is likely to be conveyed for little or no return.

If the proposal is to generate significant additional proceeds, more properties will have to be identified, and they will have to be far more valuable in the private marketplace than the properties currently listed. In many cases, they would be facilities that the government is currently using, and that would be—and that they would only be made available for sale by relocating ongoing activities.

CBO has identified three approaches to consider if the Congress' goal is to increase the proceeds from real-property sales: One, creating clear incentives not just to dispose of property but to maximize proceeds; two, where appropriate, exempt some properties from existing laws that slow the disposal process down or require that properties be donated or given away; and, three, specify in law exactly which valuable properties must be sold.

Even with those steps, however, the government's ability to sell land, as well as that land's market values, often depend on local zoning. Disposing of properties and maximizing sales proceeds will be difficult as long as local stakeholders oppose such efforts. Making changes could have unintended consequences, however, and the Congress and the administration will have to weigh the relative benefits and costs of various impacts.

Thank you. I am more than happy to talk more about CBO's research in this area and answer any questions you have.

[The prepared statement of Ms. Gullo follows:]

Chairman Issa, Congressman Cummings, Members of the Committee, thank you for inviting me to review the Congressional Budget Office's (CBO's) analysis of the President's proposal to expedite the disposal of federal civilian real property.¹

The President included such a proposal in his 2012 budget submission to the Congress in February, and the Administration recently transmitted similar draft legislation to the Congress in the form of the Civilian Property Realignment Act. My statement summarizes CBO's analysis of that proposal, which was discussed in a letter that CBO sent to this Committee in June.² I will also offer some thoughts about how a process for disposing of unneeded federal property could be structured to increase proceeds to the federal government.

Summary

CBO's review of the President's proposal concluded that it was not likely to significantly increase receipts from sales of federal property in part because there is only a limited amount of excess property with significant market value and there are numerous legal, practical, and political obstacles to the sale of such property. The proposal might induce some agencies to sell property that cannot be sold under current law, and those sales would probably bring in a small amount of additional receipts to the Department of the Treasury. However, agencies also would be allowed to spend a portion of their proceeds from the sale of property, including those proceeds that would be obtained under current law and that would otherwise accrue entirely to the Treasury.

As a result, CBO estimates, enacting the proposal would *increase* net direct spending by \$60 million over the 2012–2021 period.³ In addition, under the assumption that the necessary amounts would be appropriated, CBO estimates that discretionary spending to identify and prepare property for sale or transfer would total \$420 million over the 2012–2016 period. Some savings might accrue in later years because the proposal could significantly increase the number of properties disposed of, although not necessarily by sale, thus reducing future costs—and the necessary appropriations—to maintain them.

The Administration estimates that its proposal would result in more than \$16 billion in additional gross receipts over the 2013–2017 period, an average of more than \$3 billion per year from property sales. But CBO has reviewed the results of earlier

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1. Federal real property consists of buildings, structures, and lands owned by the federal government within and outside of the United States.
 2. Congressional Budget Office, letter to the Honorable Darrell E. Issa containing an analysis of a proposal to expedite the disposal of federal civilian real property (June 27, 2011).
 3. Direct spending is the budget authority provided by laws other than appropriation acts and the outlays that result from that budget authority. Discretionary spending is the budget authority that is provided and controlled by appropriation acts and the outlays that result from that budget authority.

efforts to dispose of unneeded federal property and has concluded that the legislation probably would not result in a significant increase in proceeds over the next 10 years because the number and value of properties sold under the proposal would not be significantly greater than would be the case under current law.

To be successful in substantially increasing the proceeds from disposing of federal properties, legislation would probably have to do one or more of the following:

- Create clearer incentives for agencies to sell (rather than give away) property;
- Exempt property from federal laws that discourage or impede sales; and
- Be very specific about which properties must be sold.

The President's Proposal

The President proposes to create a Civilian Property Realignment Board (CPRB) to expedite the disposal of unneeded federal real property and identify opportunities to consolidate and make the best use of facilities it retains. Under the proposal, the board would present the Congress with recommendations for disposal of specific properties. Unless the Congress disapproved of those recommendations, the Administration would implement them.

As an incentive to dispose of unneeded property, agencies would be allowed to retain and spend up to 40 percent of the net proceeds from the sale of properties under their jurisdiction. One goal of the proposal is to have sales proceeds pay for the CPRB and any costs of preparing unneeded property for sale or disposal.

The CPRB would be modeled on the commission created as part of the Base Realignment and Closure (BRAC) program in 1988 to dispose of unneeded federal properties managed by the Department of Defense. Under that program, the Secretary of Defense sends the BRAC Commission recommendations for the realignment or closing of defense-related properties. The commission, which is appointed by the President, evaluates the list and can add properties to it. The President then approves or rejects the list in its entirety. If approved, the list is sent to the Congress to approve or reject within 45 days. If the Congress approves the list or takes no action, the commission begins disposing of the properties through transfer to other federal agencies, conveyance for a nominal amount to nonfederal entities, or sale.

CBO Estimates That the President's Property Proposal Would Not Result in Significant Additional Sales Receipts

CBO expects that the proposed CPRB legislation would not significantly increase the proceeds from the sale of unneeded federal properties compared with the amounts expected under current law. That conclusion is based on the experience of the BRAC program and other initiatives to dispose of federal properties, the incentives that some

agencies have to retain unneeded properties, and the uncertain market value of properties that are available for sale or for disposal by some other method under current law.

The BRAC Process Has Yielded Modest Proceeds

BRAC was created to align the nation's inventory of defense-related real property with the needs of the military. The commission was not directed to maximize receipts to the Department of the Treasury from disposing of unneeded assets but to reduce expenditures on operation and maintenance and to reorganize the geographic disposition of military forces efficiently. Over the past 20 years, more than 350 military installations have been conveyed to nonfederal entities through the BRAC process. The proceeds from sales have amounted to about \$1.5 billion. More than half of the receipts over the period resulted from the sale of two Marine Corps air stations in California.⁴

In addition to those proceeds, the transfer of properties to nonfederal entities through the BRAC process has eliminated the need to maintain those facilities. Whether the reduction in such maintenance costs resulted in outlay savings for the government depends on whether appropriations were reduced to reflect the lower maintenance costs or those funds were allocated for other purposes.

Other Efforts to Dispose of Unneeded Federal Properties Have Had Mixed Results

The federal government sells property on an ongoing basis, but the net budgetary impact is quite small. The proceeds from the sale of civilian real property, minus the share of the proceeds that agencies were allowed to spend, totaled about \$70 million over the past five years. In its baseline projections, CBO anticipates that annual receipts of about \$20 million will be deposited in the Treasury from such activities. Most of the property that the federal government disposes of is not sold: In 2009, the government disposed of 19,460 properties—only 2,200 through sales. On average, the annual operating cost per property of those that were disposed of came to about \$7,500.⁵

Attempts to legislatively direct the sale of federal real property have produced mixed results. High-profile sales of federally owned properties that were specifically directed by legislation include the following:

- *Governors Island, a 172-acre island in Upper New York Bay near Manhattan.* The Balanced Budget Act of 1997 required the General Services Administration (GSA) to dispose of the property at fair market value. GSA appraised the island at

4. Government Accountability Office, *Military Bases: Analysis of DOD's 2005 Selection Process and Recommendations for Base Closures and Realignments*, GAO-05-785 (July 2005), p. 48, www.gao.gov/new.items/d05785.pdf.

5. The Federal Real Property Council, *FY 2009 Federal Real Property Statistics* (September 2010), p. 11.

\$500 million (later revised to \$300 million) but sold it to the state of New York for one dollar.⁶

- *The Presidio, a 1,491-acre area in San Francisco, California.* Although the Presidio was slated for disposal through the BRAC process in 1994, the property was not sold; instead, it is managed mainly by the Presidio Trust, a public–private partnership that receives an annual federal appropriation.
- *The Old Chicago Main Post Office, which had an estimated replacement value of \$300 million.*⁷ The building was sold at auction in 2009 for \$20 million, 12 years after it had been vacated.⁸

The government occasionally has sold property for a significant amount. For example, in 2007, the Department of State sold its Navy Annex building in London for \$494 million.⁹ Similarly, the Postal Service sold the Farley Building in New York City for \$230 million.¹⁰ However, in both cases the agencies had authority to retain and spend all proceeds.

In 2004, President Bush issued Executive Order 13327, Federal Real Property Asset Management, which set a target date of 2015 to reduce by a total of \$15 billion the net expense associated with unneeded federal buildings.¹¹ The current Administration issued a Presidential Memorandum on June 10, 2010, which called on civilian federal agencies to produce total cost savings of at least \$3 billion by 2012.¹² Those net

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6. Jaan Elias and others, *Governors Island: Local, State, & Federal Play Deal or No Deal*, Yale Case 07-027 (Yale School of Management, April 24, 2007), p. 2, http://pse.som.yale.edu/sites/pse.som.yale.edu/files/Case_Governors%20Island%20Final%20and%20Complete.pdf.
 7. Replacement value is the cost of replacing an existing asset under current standards. See U.S. Postal Service, letter to Tom A. Samra, Vice President, Facilities, U.S. Postal Service, regarding the sale of the Old Chicago Main Post Office (August 25, 2009), www.uspsig.gov/foia_files/SA-WP-09-001.pdf.
 8. Melissa Harris, “British Developer Bill Davies Again Top Bidder for Old Post Office,” *Chicago Tribune* (October 22, 2009), http://articles.chicagotribune.com/2009-10-22/news/0910210598_1_post-office-top-bidder-british.
 9. Government Accountability Office, letter to the Honorable Edolphus Towns and the Honorable Darrell Issa, “Federal Real Property: Authorities and Actions Regarding Enhance Use Leases and Sale of Unneeded Real Property” (February 17, 2009), p. 11, www.gao.gov/new.items/d09283r.pdf.
 10. United States Postal Service, *Annual Report 2007*, p. 47, www.usps.com/financials/_pdf/AR2007_final.pdf; *Annual Report 2008*, p. 56, www.usps.com/financials/_pdf/annual_report-2008.pdf; and *Annual Report 2009*, p. 73, www.usps.com/financials/_pdf/annual_report_2009.pdf.
 11. Presidential Documents, “Federal Real Property Asset Management,” *Federal Register*, vol. 69, no. 25 (February 6, 2004), pp. 5897–5900, <http://edocket.access.gpo.gov/2004/pdf/04-2773.pdf>.
 12. The White House, “Presidential Memorandum—Disposing of Unneeded Federal Real Estate” (June 10, 2010), www.whitehouse.gov/the-press-office/presidential-memorandum-disposing-unneeded-federal-real-estate.

savings were to result from additional sales proceeds as well as from reducing operating costs as properties were disposed of and space was consolidated. CBO is not aware of any comprehensive reports regarding progress toward those goals, but even if property disposal efforts do not result in substantial additional receipts to the Treasury, savings could result from eliminating operation and maintenance costs for such facilities.

Many Agencies with Unneeded but Valuable Property Would Have Little Additional Incentive to Sell It

The purpose of the proposed CPRB is to increase the volume of the sales or other disposal of unneeded federal properties. However, in CBO's view, the proposal would not offer many agencies sufficient new financial incentives to part with valuable unneeded properties.

The President's proposal would allow agencies to retain up to 40 percent of the net proceeds from property sales as an incentive to dispose of unneeded property. However, under current law, some federal agencies that manage real property can retain and spend 100 percent of the proceeds from the sale of excess property; the President's proposal would offer no incentive for those agencies to increase the pace of their sales. Moreover, some of the civilian agencies that hold the large amounts of property, such as the Departments of Veterans Affairs, the Treasury, and Energy, as well as the GSA, already have authority under current law to enter into enhanced-use leases, which often prove more lucrative than sales. Those arrangements allow agencies to lease underused land and facilities for cash or in-kind services; the agencies thereby secure private financing—outside of the appropriation process—for construction or renovation of buildings, power plants, and other infrastructure.¹³

Some agencies that hold smaller amounts of property probably would consider the opportunity to retain some of the sales proceeds as an incentive to sell additional unneeded property. However, that added incentive would come at a price—allowing agencies to spend 40 percent of the proceeds, including those that would be collected by all agencies under current law—that CBO estimates would boost spending by more than the added sales.

The Inventory of Excess Property Has Uncertain Market Value and Much of It Is Already Being Disposed of Under Current Law

The GSA's annual reports on federal property reveal the great diversity and vast amount of real property owned by the federal government across the country and around the world.¹⁴ Many excess government structures are located in rural areas, often on land in national forests or national parks that is not proposed to be sold.

13. See Congressional Budget Office, *Third-Party Financing of Federal Projects*, Issue Brief (June 2005).

14. For the most recent accounting, see The Federal Real Property Council, *FY 2009 Federal Real Property Statistics* (September 2010).

Such structures have little market value. By the time agencies are prepared to dispose of most real property, the facilities are often well into their useful economic lives, and many would need significant investments to be reused. Other facilities that are older may have environmental contamination issues that limit their marketability. Finally, local governments may or may not be amenable to redevelopment plans for unneeded federal facilities, and the potential need for rezoning may also affect the sales value.

The Administration recently released information about 12,000 federal buildings and structures it currently designates as excess.¹⁵ Those properties—among them buildings, warehouses, sheds, roads, bridges, towers, and other facilities—can be disposed of or sold under current law. They are located across the country, in rural and urban areas, and many are on land controlled by the National Park Service or the Forest Service.

Data from the Administration's list suggest that gaining billions of dollars from the sale of such properties, even if some additional sales were triggered by the President's proposal, is unlikely. About one-third are held by the Department of Defense, and responsibility for their sale or disposal, which currently rests with the BRAC Commission, would not be transferred to the CPRB. In addition, those data indicate the following:

- Forty-five percent of the listed buildings and structures are already being disposed of under current law;
- Twenty-eight percent will probably be demolished;
- Twenty percent have already been disposed of, are no longer considered excess properties, or have been transferred to another federal agency;
- About 6 percent are slated to be conveyed for little or no cost to another public entity or transferred for economic development purposes; and
- Less than 1 percent of the properties (about 30 in all) are expected to be available for sale or have already been sold. Of that group, three are federal office buildings, and the largest, in Portland, Oregon, was sold at auction in 2010 for \$2.5 million.¹⁶

If the Civilian Property Realignment proposal is to generate significant additional proceeds from property sales, more properties would have to be identified, and they

15. The White House, "Federal Excess Properties Interactive Map," www.whitehouse.gov/issues/fiscal/excess-property-map.

16. Wendy Culverwell, "Prem Group Wins Custom House Auction," *Portland Business Journal*, October 4, 2010, www.bizjournals.com/portland/stories/2010/10/04/daily3.html.

would need to be far more valuable in the private marketplace than are the properties currently on the Administration's list.

The President's Property Proposal Could Reduce the Need for Appropriations to Maintain Real Property

The sale, transfer, or disposal of federal property would lead to a reduction in the need for appropriated funds to maintain and improve federal properties. The Government Accountability Office (GAO) has reported that operation and maintenance costs typically account for between 60 percent and 85 percent of the lifetime costs of owning a building.¹⁷ Some of those amounts would be eliminated even if the proceeds from selling or transferring a particular property were negligible.

In 2009, government agencies, including the Department of Defense, reported that they spent about \$1.7 billion to operate about 45,000 underutilized federal buildings and about \$0.3 billion to operate about 10,000 buildings classified as excess.¹⁸ Some of those buildings are only slightly underutilized, and some of the space characterized as underutilized is not readily usable. Still, restructuring building occupancy to increase utilization of some facilities so that others could be disposed of and disposing of excess properties would eliminate some annual operating costs and thus reduce future spending if appropriations were reduced by corresponding amounts. However, most of such savings would have to come from consolidating existing operations and disposing of buildings that are currently being used.

Strategies That Could Help Increase Proceeds

On the basis of its analyses of many years' worth of property disposals, CBO has identified some steps the federal government could take to increase the proceeds from such sales.

Create a Clear Incentive to Maximize Proceeds, Not Just to Dispose of Property

Many proposals create incentives to dispose of property, but not necessarily to sell it. Simply authorizing or even requiring disposal could help reduce the stock of surplus properties (and thereby potentially decrease the need for future appropriations to manage them), but such a process would not necessarily generate significant additional receipts. Requiring that valuable properties be auctioned to the highest bidder could ensure that more of the value of unwanted federal property is returned to the Treasury.

17. Government Accountability Office, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (March 2011), p. 222, <http://gao.gov/new.items/d11318sp.pdf>.

18. The Federal Real Property Council, *FY 2009 Federal Real Property Statistics* (September 2010), p. 8.

Exempt Sales of Surplus Property from Existing Laws That Slow the Disposal Process or That Allow Property to Be Donated First

The amount of property that can be sold is limited under current law. GSA and other federal agencies must follow certain statutory procedures for disposing of federal property that discourage sales. Proceeds could be increased if property sales were exempted from the host of laws that slow the disposal process or that require the government to donate surplus property or to offer it at a reduced cost to other parties before it is auctioned.

Current law places several constraints on the amount that the government can make from selling property. For example, before soliciting bids from potential buyers, GSA must offer property, at a discount of up to 100 percent, to states, local governments, and nonprofit organizations, which can use it for purposes such as parks, prisons, schools, airports, or other public facilities. In addition, numerous laws, including the Stewart B. McKinney Homeless Assistance Act and the National Historic Preservation Act, limit the ability of some federal agencies to sell their excess property.

Specify in Law Which Properties to Sell

Finally, specifying in legislation the exact list of properties that must be sold rather than allowing federal agencies or a commission to do so would result in additional proceeds from sales.

Other Considerations

The government's ability to sell some federal property—as well as that property's market value—often depends on local zoning. Most decisions about land use in the United States are made by local governments through zoning and other measures designed to ensure that land is developed according to coherent plans. Potential buyers must consider how local governments will let them use or redevelop a property that was, for example, an industrial site, post office, fuel depot, airfield, office building, port facility, or military site. A federally owned site on a river front, for example, may have been a costly investment in the past, but that does not ensure that such a site would be valuable to a private purchaser—especially if the local government is unwilling to see the property redeveloped but desires instead to have it be open space or parkland. It could be difficult to dispose of some properties or to maximize the proceeds from their sale as long as local stakeholders oppose such efforts.

The various steps the federal government could take to accelerate property disposal and increase sales proceeds could have other consequences. Some actions and undue speed could create errors in planning, invite legal challenges, lead to environmental damage, or impose mandates on a state or local government. The Congress and the Administration would need to weigh the relative benefits and costs of those possibilities.

Mr. KELLY. Thank you, Ms. Gullo. Appreciate it.
Mr. Foley.

STATEMENT OF DAVID FOLEY

Mr. FOLEY. Thank you. Good morning, Chairman Kelly and Ranking Member Cummings and members of the committee. My name is David Foley, and I am the deputy commissioner of GSA's Public Buildings Service. I am honored to join you today to discuss our asset management strategies and our governmentwide role in disposition, as well as the unique challenges of the Federal real-property disposal process and how a civilian property realignment initiative can help address those challenges to meet our obligation to taxpayers to reduce costs and spend every dollar as effectively as possible.

As the Federal Government's landlord, we have a robust asset management program to accurately track the utilization of our inventory, strategically invest in our assets, and aggressively dispose of unneeded property. When we find underutilized space, we evaluate whether there is a Federal need in that location. If not, we immediately begin the disposal process. GSA leads the industry and government with low vacancy rates and high utilization. Less than 3 percent of our portfolio is considered under- or not utilized.

An underutilized asset must be distinguished from an unneeded asset. It may still be in the taxpayers' best interest to retain an underutilized asset. For example, in the national capital region, GSA has 1.9 million square feet of underutilized space, but 1.7 million square feet is currently categorized as underutilized because it has been vacated to undergo a major renovation. These buildings will provide highly utilized, modern, and cost-effective space when the renovations are complete.

In 2002, under Commissioner Moravec, GSA began a portfolio restructuring. Since then, we have disposed of more than 200 GSA properties, valued at \$467 million, covering more than 9½ million square feet. Since 2005, GSA has had the authority to retain sales proceeds. This authority has returned almost \$227 million to the Federal Buildings Fund. Beyond the proceeds the government received, those dispositions and demolitions also eliminated an estimated \$484 million in future repair needs, and millions more were saved in operating costs. Similar incentives are contemplated for all agencies in the administration's proposal.

In addition to managing our own inventory, GSA has authority to dispose of properties for other Federal agencies. The Property Act disposal process and guiding environmental and historic statutory requirements create some unique challenges for agencies. These congressionally mandated requirements are intended to strike a balance between social and economic policy objectives.

Each individual land-holding agency is responsible for determining if they have an ongoing mission for the asset. If not, they report the unneeded property, which may be one or more assets excess to their needs. When GSA accepts a report of excess for a property, we take 30 days to survey other Federal agencies to determine if there is another Federal use for the property.

If no other agency needs the property, it is considered surplus to the government's needs and offered to public organizations, pri-

marily State, county, and city entities. These entities can acquire the property through a public benefit conveyance or negotiated sale at fair market value. If there is no viable public interest for a benefit or negotiated sale, then GSA conducts a public sale of the property. This process can be as short as 60 days or take up to 6 months.

Every property is unique, and GSA develops disposal strategies specific to each asset's characteristics within the existing statutes. One of the most common delays in the process results from competing stakeholder interests and community expectations. The administration civilian property realignment initiative would streamline the process while minimizing external stakeholder influences that could delay or interfere with effective strategic asset management.

Based on our experience, we believe that reform to real property asset management must address three central challenges: one, incentivizing disposals by enabling agencies to realize the benefit of proceeds; two, addressing the upfront costs associated with disposals and consolidations; and, three, resolving competing stakeholder interests that can slow down or prevent good asset management decisions.

The administration's efforts anticipate working with Congress to create a successful initiative, and we welcome the efforts of OMB, this committee, and other Members of Congress to successfully reform and improve real-property management. Given GSA's expertise in asset management and our experience partnering with other Federal agencies to dispose of real property, we are well aware of the challenges in domestic Federal disposition process. We welcome the opportunity to be part of the ongoing dialog and can help inform the process of establishing a successful civilian property initiative.

Thank you for the opportunity to appear here today before you, and I welcome any questions you may have.

[The prepared statement of Mr. Foley follows:]

Good morning Chairman Issa , Ranking Member Cummings, and members of the Committee. My name is David Foley and I am the Deputy Commissioner of the U.S. General Services Administration's Public Building Service.

I am honored to join you today to discuss GSA's asset management strategies, our role in disposition government-wide, the unique challenges of Federal real property disposals, and how a civilian property realignment initiative can help address those challenges and meet our obligation to taxpayers to spend every dollar as effectively as possible.

GSA's Asset Management –

First, I would like to discuss our role with respect to assets that GSA directly controls. GSA is one of the largest and most diversified public real estate organizations in the world. Our inventory consists of over 9,600 owned and leased assets with approximately 370 million square feet of space across all 50 states, 6 territories, and the District of Columbia.

As the Federal government's landlord, we have a robust asset management program to track utilization of our inventory, strategically invest in our assets, and aggressively dispose of unneeded assets. GSA leads the market with low vacancy rates and high utilization; less than 3 percent of our portfolio is classified as an under- or non-utilized asset.

When we find underutilized space, we evaluate whether the asset is worth reinvestment or should be disposed of, looking at the cost to reinvest and to maintain, and whether or not there is a long-term Federal need.

Where there is a continuing Federal need, GSA works aggressively to renovate and reuse the asset to achieve greater utilization and avoid costly leasing. Since we began a restructuring initiative in 2002, GSA has led a number of critical consolidation projects and completed more than 140 major modernization projects. These facilities provide more efficient workspace for tenant agencies, and these consolidations reduce space and operational costs for the Federal government.

GSA's Real Property Disposition -

When we determine that a GSA property, which could be composed of one or more assets, is not worthy of reinvestment and no longer meets a long-term

Federal need, GSA initiates the disposal process. We aggressively work to identify and target unneeded assets for disposal.

An underutilized asset must be distinguished from an unneeded asset. An asset could be underutilized for a variety of reasons, while still being in the taxpayers' best interest to retain in the Federal inventory. For instance, of the 1.9 million square feet of underutilized space in GSA's inventory in the nation's capital, 1.7 million square feet is currently categorized as underutilized because it is undergoing modernization and will provide renovated, highly utilized, and cost-efficient space upon completion of these projects.

Since 2002, we have disposed of more than 200 GSA properties valued at \$467 million and covering more than 9.5 million square feet. These dispositions represent an elimination of and almost \$484 million in future anticipated repair needs.

Since GSA gained the authority to retain sales proceeds in 2005, GSA's disposal actions have returned almost \$227 million in receipts to PBS's Federal Buildings Fund.¹ The Thaddeus J. Dulski Federal Office Building in Buffalo, NY is an example of an effective disposition. In 2005, GSA excessed this building, which had a high vacancy rate and a need for costly renovations. This underperforming asset was sold to a private developer in 2006 and generated \$6 million for the Federal Buildings Fund. The building was renovated as a mixed-use hotel, commercial and residential property that has helped keep jobs in downtown Buffalo, while adding to the tax base for the city. The funds received from the sale have been reinvested into our portfolio to help maintain well functioning and welcoming buildings. A similar incentive, which allows for agency reinvestments into their real property portfolio, is contemplated in the Administration's proposal.

GSA's Role as the Disposal and Repositioning Agency of the Government –

In addition to managing our own inventory, GSA has authority to dispose of most properties that other Federal agencies control. In this capacity, GSA provides strategic direction and oversees the development of programs related to the utilization and disposal of Federal excess and surplus real property.

GSA develops tailored disposal strategies specific to an asset's characteristics, environmental issues, community interests, stakeholder concerns, and market conditions. Similarly, when preparing a property for public sale, GSA develops

¹ This figure includes revenue generated through use of all GSA disposal authorities. GSA has generated approximately \$140 million for the Federal Buildings Fund using Section 412 authority alone.

marketing plans that optimize the public offering. We use tools and techniques designed to reach very broad audiences and we target specific niche interests.

While GSA has the expertise to navigate properties through this disposal process, each individual landholding agency is responsible for making their own asset management decisions on whether that asset is excess to their needs.

The Disposal Process –

Knowledge of the Property Act disposal process and of the guiding environmental and historic statutory requirements that must be followed during the disposal process is critical to understanding some of the unique challenges of this system. For each disposition we manage, GSA has to meet certain requirements in the existing framework of authorities. These requirements include evaluating the property for Federal and public benefit use, identifying and addressing any environmental issues with the property, and special consideration for historic properties.

The disposal process begins when a Federal agency determines that it no longer has a mission need for an asset, or assets, and reports a property as “excess” to its needs. In this instance, a property could be composed of multiple assets. We should draw a distinction here between property reported as legally excess through the disposal process and property that is designated as excess in GSA’s Federal Real Property Profile (FRPP) database. Not all of the properties listed in the FRPP will turn into Reports of Excess and be disposed of since some may be demolished or have cleanup requirements that are too costly or timely.

When we accept a Report of Excess, GSA surveys other Federal agencies to determine if there could be another Federal need for the property. After a 30 day period of agency consultation, if we identify no valid need for the property within the Federal government, it is considered “surplus” to the Government’s needs and offered to public organizations primarily state, county, and city entities. These entities can acquire the property through a negotiated sale at fair market value or through a public benefit conveyance for specific uses including homeless assistance, parks and recreational purposes, historic monuments, public health needs, educational purposes, correctional institutions, and law enforcement needs.

Public benefit conveyances may be discounted up to 100 percent of the fair market value. Determining if a property meets the criteria for public benefit conveyance, as well as working with state or local community through this phase often adds time to the process. Local stakeholder interests can lead to delays in this process when various stakeholders try to advocate for a particular use of the property. GSA, however, works with the applicable Federal agencies to conduct

public benefit assessments, where appropriate, and works with the local community while proceeding through the disposal process, trying to minimize any delays.

If there is no viable public benefit interest or negotiated sale interest in the property, GSA is then required to conduct a public sale of the property. Through aggressive marketing and public outreach, sometimes employing the services of private sector brokers, GSA conducts the sale through an online auction, public outcry auction, or sealed bid. The market exposure for each asset will vary based on the asset's condition, amenities, limitations, location, and other factors. Typically, GSA and its brokers develop marketing plans which include the appropriate sales method. Once we determine which sales method to use, we begin the marketing through local print media, and a variety of electronic notices. For all sales methods, the marketing continues up to the point of award. This process can be sixty to one-hundred and eighty days.

In addition to these process requirements, dispositions must comply with a variety of environmental and historic preservation requirements. For example, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 imposes requirements on transfers of Federal real property to non-federal entities, including, when necessary, characterization and remediation of the asset's hazardous substances. The National Environmental Policy Act (NEPA) requires landholding agencies to identify and analyze environmental impacts associated with deeming a property as excess and disposing of the asset, and to consider possible mitigation measures for such impacts. The NEPA review is often used as the process that provides a framework to fully address, or assist in addressing, the other environmental and historic preservation requirements. The process for the disposition of properties also must be in compliance with Section 106 of the National Historic Preservation Act, which requires GSA to consider the effects of its proposed disposal undertakings on historic properties. Even when GSA receives special legislation to dispose of a property directly to sale, appropriate historic and environmental issues must be addressed.

The Federal civilian disposition process is an iterative and deliberate process with a number of statutory requirements that seek to strike a balance between social and economic policy objectives.

These requirements were designed to ensure properties are disposed of consistently and in the best interest of the American taxpayer, and GSA develops disposal strategies specific to the asset's characteristics, within existing statutes. The Administration's proposal also seeks to find the appropriate balance while stressing further flexibility.

Although the disposal process can be time consuming, this process is often delayed further with the associated stakeholder interests and community expectations. These variables often manifest themselves into competing interests that create inefficiencies and drive increased time and costs. The Administration's civilian property realignment initiative would streamline the process, while minimizing external stakeholder influences that could delay or interfere with effective, strategic asset management.

Federal Real Property Disposition Reform -

GSA supports the Administration's goals and those of this committee and other members of Congress to dispose of unneeded Federal real property and streamline the current disposal process. While GSA works hard to mitigate time and cost delays of disposing of unneeded properties, the Administration's proposal addresses the key challenges that exist with the current process which should streamline and accelerate the disposal process. GSA supports the Administration's proposal.

Based on our experience, we believe that a reform to real property asset management must address these central challenges:

- 1) Incentivizing disposals by enabling agencies to realize the benefits of proceeds
- 2) Addressing the upfront costs associated with disposals and consolidations
- 3) Resolving competing stakeholder interests that can slow down or prevent good asset management decisions

The Administration proposed legislation earlier this year for a Civilian Property Realignment Act designed to accelerate the disposal and consolidation of the Federal government's civilian properties and optimize the utilization of the Federal inventory. This initiative will create an independent Board that aims to increase the number of properties available for disposal, streamline the disposal process and seek new disposal opportunities to help the Government realize financial savings, and look for opportunities to consolidate and co-locate similar functions within the government. It will take these actions in an environmentally conscious manner, consistent with the law and protective of public health and the environment. The initiative expands upon the June 2010 Presidential Memorandum that directed Federal civilian agencies to increase efforts to dispose of unneeded Federal real estate and to maximize the utilization of the current inventory to achieve billions in savings.

The Administration's efforts anticipate working with Congress to create a successful initiative, and we welcome the efforts of OMB, this committee, and

other Members of Congress to successfully reform and improve Federal real property management.

Given GSA's expertise in asset management and our statutory authority over government-wide property disposal, we welcome the opportunity to be a part of the ongoing dialogue on how to improve utilization and disposal of real property. GSA's experiences in working with partner Federal agencies to dispose of real property, as well as challenges we have identified in the domestic Federal disposition process, can help inform the ongoing process of establishing a successful civilian property initiative that accomplishes what we are all hoping to achieve: meeting our responsibility to taxpayers to spend every dollar effectively and find ways to do more with less.

Thank you for the opportunity to appear before you today, and I welcome any questions you have.

Mr. KELLY. Thank you, Mr. Foley.
Ms. Foscarinis.

STATEMENT OF MARIA FOSCARINIS

Ms. FOSCARINIS. Thank you. And good morning, Chairman Kelly and Ranking Member Cummings, members of the committee. Thank you for holding this important hearing and for inviting my testimony. I am Maria Foscarinis, executive director of the National Law Center on Homelessness and Poverty.

In 1987, Title V of the McKinney-Vento Act put in place a commonsense, cost-effective provision to help homeless people. Under the law, nonprofit service providers have a right of first refusal to acquire at no cost excess Federal real property to provide housing and services to people who are homeless. Providers take on maintenance expenses, alleviating a cost otherwise borne by the Federal Government. My organization assists these providers to acquiring used property, receiving no financial gain for our work.

More than 2.4 million Americans each year receive assistance through Title V, which has provided access to nearly 500 properties, like the New England Center for Homeless Veterans in Boston, which serves over 1,000 homeless vets per year. Surplus Federal properties now provide shelter, transitional and permanent housing, case management, food pantries, job training, mental health and substance abuse treatment, and child care. As homelessness continues to increase across the country, this is not the time for Congress to weaken or eliminate this vital program.

The Law Center understands the concerns of this committee and OMB that surplus Federal real property is languishing, but Title V is not the cause of delays in Federal property disposal process. Indeed, the Title V process takes only a few months, and it should not be harmed or eliminated in the name of procedural reform.

The Law Center has consistently worked with Congress, HUD, and other Federal agencies to improve and streamline Title V. As detailed in our written testimony, we recommend improvements. These include: excluding properties that are not useful to homeless service providers; publishing available properties online rather than in the Federal Register; requiring HUD, GSA, and HHS to provide meaningful outreach and support to streamline the process; and making additional HUD properties, such as the HUD homes now in foreclosure, available to address dramatic increases in homelessness and cut costs.

I will briefly now address the proposals before the committee.

The Civilian Real Property Alignment Act, H.R. 1734, like the OMB proposal, would waive Title V rights and create a, "BRAC-like board" to decide whether surplus property should be disposed of or sent to HUD for homeless use screening.

We oppose both proposals in their current form. We are concerned that the proposed board would not fully consider the needs of homeless persons. We recommend requiring that the board include at least two members with homeless advocacy or direct service experience.

We are also concerned that the proposals would eliminate Title V's most critical feature, the requirement that Federal surplus properties be offered for homeless assistance. We recommend that

a property must be offered to homeless service providers if a single member of the board requests it.

Finally, we are concerned about the deadlines. They would not offer enough notice to allow public comment to be well-informed nor enough time for homeless service providers to apply. We recommend a fairer, more reasonable timeline.

H.R. 665 would create a pilot program granting the OMB director sole discretion over disposal of excess Federal real property for a 10-year period, waiving much of the existing legal framework, including Title V. We oppose the bill in its current form.

We are concerned by the level of discretion granted to the OMB director in this proposal. The statutory incentive for-profit sale of the director would be at direct cross-purposes with the needs of homeless service providers seeking Title V properties at no cost. There is no reason to believe a significant number of providers would have any meaningful access to any properties that become surplus during the 10-year period.

H.R. 1205 would create a pilot program that exempts a narrow set of properties from Title V. Because it would cover only a very limited number of properties, such as national security properties, H.R. 1205 would not be harmful to homeless persons, and we do not oppose it. But we recommend the bill be expanded to include our recommendations for Title V reform.

Homelessness is now increasing at dramatic rates across the country. Family homelessness increased by 9 percent in 2010 alone. This is not the time for Congress or the administration to reverse its commitment to the lowest-income Americans.

Thank you for allowing me to testify, and I look forward to your questions.

[The prepared statement of Ms. Foscarinis follows:]

Introduction

Chairman Issa, Ranking Member Cummings, members of the Committee - thank you for the opportunity to submit a statement for the record of this important hearing. Executive Director Maria Foscarinis will provide an oral summary of this testimony at the hearing.

The mission of the National Law Center on Homelessness & Poverty is to serve as the legal arm of the nationwide movement to end homelessness. We do this through policy advocacy, public education, and impact litigation. Ms. Foscarinis played an instrumental role in drafting the original McKinney-Vento Homeless Assistance Act in 1987 ("McKinney Act"). Since that time we have worked to strengthen the McKinney Act, most recently through passage of the HEARTH Act of 2009.

In 1987, Title V of the McKinney Act put in place a set of important rights for homeless persons. Under the law, homeless service providers have a right of first refusal to acquire federal property no longer needed by the government, to provide housing and services to people who are homeless. More than 2.4 million Americans each year benefit from assistance provided through these programs. As Congress reviews efforts by federal agencies to dispose of property that they no longer use or need, reforms must focus on improving the process by which those agencies work, not on curtailing the ability of homeless persons to obtain housing. Homeless Americans should not suffer for the failings of government agencies.

The legislative process typically requires the careful balancing of competing interests, in order to achieve important policy goals. In the case of federal property disposal reform, however, we think that the needs of homeless Americans are in alignment - not conflict - with the goal of making government more efficient. Consequently, while we believe that homelessness interests are of paramount importance, the Law Center feels strongly that we can protect the ability of homeless service providers to access surplus government property while still increasing government efficiency. Our statement will focus on how best to accomplish this goal.

The Federal Government Has A Strong Interest In Ending Homelessness

Each year, more than three million Americans experience homelessness, including 1.3 million children. According to the U.S. Conference of Mayors 2010 "Hunger and Homelessness Survey," family homelessness has skyrocketed during the recession, with unemployment and a lack of affordable housing driving a 9% increase in the last year. Over 70% of officials surveyed for the report expect family and individual homelessness to increase further during 2011. Three-quarters of Americans believe that housing is a human right and two-thirds believe Congress should be doing more to ensure it.¹ The U.S. government has responded to its citizens with domestic and international commitments to end homelessness. At the recent Universal Periodic Review, the U.S. agreed to "[take]

¹ Opportunity Agenda, *Human Rights in the U.S.: Opinion Research with Advocates, Journalists, and the General Public*, 19, 22 (2007).

further measures ... in the areas of economic and social rights for women and minorities, including ... reducing the number of homeless people” and to “reinforce the broad range of safeguards in favor of the most vulnerable groups such as ... the homeless to allow them the full enjoyment of their rights and dignity.”²

In June, 2010, the U.S. Interagency Council on Homelessness released “Opening Doors: Federal Strategic Plan to Prevent and End Homelessness.” Drafted largely by HUD Secretary Shaun Donovan, HHS Secretary Kathleen Sebelius, VA Secretary Eric K. Shinseki, and Labor Secretary Hilda Solis, the plan’s central belief is that “no one should experience homelessness—no one should be without a safe, stable place to call home.”³ Congress has made a similar pledge—the HEARTH Act of 2009 established “a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.”⁴

This is a wise policy. In the wealthiest country in the world, homelessness is a moral disgrace. And ending homelessness saves money – it costs far less to provide an individual or a family with housing and supportive services than it does to leave them sleeping on the street, in emergency rooms, or in prison.⁵

The Title V Process Is Working Well In Support of Ending Homelessness

Since 1987, Title V of the McKinney Act has given qualified homeless service providers the legal right to receive suitable vacant, underused, and surplus federal real property at no cost. Title V links non-profits and state and local governments in need of land or buildings with federal agencies seeking to divest themselves of excess property. In order to receive surplus property through Title V, homeless service providers must complete an extensive application and work with HUD, Health and Human Services, and the General Services Administration to prove their programmatic and financial capacity to provide services in the available property.

Successful Title V applicants have used surplus federal properties to provide services to millions of homeless people throughout the country each year, including shelter, transitional and permanent housing, case management, food pantries, job training, mental health and substance abuse treatment, and childcare. Since the program began in 1989, nearly 500 pieces of surplus federal property, including buildings and vacant land, have been transferred to homeless service providers. In 2011, we estimate that programs based in Title V properties will provide services to 2.4 million homeless people from Maine to Montana.

² United States of America, Addendum to the Report of the Working Group on the Universal Periodic Review, ¶¶ 6, 19, U.N. Doc. A/HRC/16/11/Add.1 (March 8, 2011).

³ United States Interagency Council on Homelessness, Opening Doors: Federal Strategic Plan to Prevent and End Homelessness (June 2010).

⁴ Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009, Pub. L. No. 111-22 (2009).

⁵ See, e.g., Thomas L. Moore, Estimated Cost Savings Following Enrollment In the Community Engagement Program: Findings From A Pilot Study of Homeless Dually Diagnosed Adults (June 2006).

- When the New England Center for Homeless Veterans opened on the site of a former Veterans Administration Outpatient Clinic in Boston, it was the nation's first veteran-specific homeless shelter. Recognized as the 142nd "Point of Light" by President George H.W. Bush's administration, NECHV is the largest veterans shelter in the region, offering services ranging from emergency shelter and transitional housing to employment training and health care to homeless veterans. Its founders and many of the staff and board are fellow veterans who understand and help their comrades back to recovery. Today, NECHV shelters 250 homeless veterans per night; in its twenty-year history, it has served over 16,000 veterans and more than a million meals. Since its founding, NECHV has served over 16,000 veterans, and its soup kitchen alone serves over 220,000 meals per year, while its shelter houses an average of 250 veterans per night.
- In 1991, Our House Shelter in Little Rock, Arkansas applied for and received property on the site of a former VA hospital that the group converted into a family shelter. According to Executive Director Georgia Mjartan: "In the 20 years since Our House began operating on the VA Hospital site, over 6000 homeless people have lived on the campus of the former hospital. Of these 6000, approximately 2000 were homeless children. Of the adults served, over 70% found full time jobs while living at Our House and left the program with jobs and money in savings and most importantly with the ability to move out into their own place—out of homelessness once and for all."
- The Emmaus Homeless Shelter was founded in 1992 on the site of a long-vacant post office in rural Ellsworth, Maine. Says its Director, Sister Lucille MacDonald, "I cannot imagine what life would be like for the homeless and those individuals and families struggling to survive if the Emmaus Homeless Shelter never existed. In the first four months of 2011, this wonderful building acquired through Title V of the McKinney-Vento Act has given 2313 bed nights to homeless individuals [and] families. The shelter has been full to capacity since last October and with a lengthy waiting list. We have also been the catalyst for 6711 individuals/families to receive non-residential services – food, clothing, furniture, linens, help with electric, fuel, medications, etc." According to Sister MacDonald, "[o]ne big advantage of ... Title V ... is the fact that we do not have to pay rent for the use of the building ... [U]pkeep of the building and surrounding area is financially difficult enough and if we had rent responsibilities, we would not be able to support the many needed components of caring for those in need."
- A former U.S. Army training center and armory in Kalispell, Montana is now Samaritan House, a multi-dimensional housing and services community for homeless individuals, veterans, and families in northwest Montana. The acquisition of the property in July 2008 more than doubled Samaritan's property holdings and permitted them to vastly expand their emergency shelter and transitional housing programs. Today, Samaritan House houses more than 1500 men, women, and children every year, and serves over 21,000 meals annually.

In these troubling economic times, we need to encourage additional homeless service providers to use surplus federal property wisely and efficiently. We must not take these opportunities away.

The Federal Real Property Disposal Process Is Not Delayed By Title V

The Law Center understands the concerns of this Committee, and the Office of Management and Budget (OMB), that the federal government may not be disposing of surplus federal real property in the most efficient manner possible. In order to maintain the faith of citizens in the federal government's ability to accomplish important policy goals such as ending homelessness, our government must manage its resources prudently.

However, agreement on the problem must be step one. In order to propose responsible solutions, this Committee must also determine what is causing the problem. Because the Title V process is not the cause of delays in the federal property disposal process, it should not be drastically altered or eliminated in the name of procedural reform.

The Law Center has reviewed documents recently released by OMB, indicating that more than 14,000 federal properties are available for sale or other methods of disposal including demolition, but are instead simply sitting unused, costing the government money to maintain as well as the potential proceeds from any sale. We do not disagree with the OMB estimate of how many properties are available. However, we reject any conclusion that Title V is responsible for the inability of government to dispose of these properties. Indeed, OMB itself does not reach that conclusion, saying only that properties cannot be disposed of due to "competing stakeholder interests as well as the cumbersome nature of the process for disposing of Federal real estate."

The first part of that sentence could be considered an allusion to Title V. However, the conclusion that Title V unreasonably delays federal surplus property sales is not supported by fact. Title V requires agencies to provide HUD, on a quarterly basis, with a list of all properties no longer being used. If HUD finds the property to be suitable for homeless use, there is a 60 day period in which homeless service providers are able to apply for property without the risk that it can be sold or otherwise disposed of. If no application is received during this time, the federal government is free to dispose of surplus property as it sees fit. The process takes a matter of months, and once complete the federal government may move forward with any alternative means of property disposal.

Based on a review of HUD data on existing properties that have entered the Title V process, we know that nearly all of the 14,000 properties have long since completed the Title V process and are freely available for sale. Homeless service providers declined to pursue the properties during the statutory Title V period after determining that they were not viable locations for providing homeless services, and they do not claim any ongoing right to access that pool of properties. If they continue to languish unsold, it is because the properties themselves are not attracting any commercial interest or because federal

agencies do not have a strong system in place for conducting property sales after Title V review.

In the first case, there is little that can be done to make properties more attractive for sale. Many of them are old buildings, often containing asbestos, lead paint, or other environmental hazards requiring abatement or remediation. In the second case, the proper remedy would be to make improvements to the subsequent steps of the federal surplus property disposal process that occur after homeless service providers have the opportunity to acquire property through Title V.

Effectively Reforming Title V While Improving The Federal Property Disposal Process

Although we reject the contention that the Title V process is responsible for delays in the federal surplus property disposal process, the Law Center has consistently worked with Congress, HUD, and other federal agencies to promote legislative proposals that would improve Title V. As we have indicated to the Committee, we strongly support the inclusion of these proposals in any property disposal legislation under consideration.

The following are some of our key proposals. We look forward to a continuing dialogue with the Committee around these recommendations.

- Significantly reduce the total number of properties required to go through the Title V process by excluding properties that homeless service providers would not want to use (e.g. properties that cannot be accessed due to national security, properties inside military facilities, contaminated properties).
- Require HUD, HHS, and GSA to develop an outreach plan and engage in ongoing and meaningful public outreach.
- Ensure that recipients will be able to use properties for all forms of permanent housing.
- Publish available properties online rather than in the Federal Register, and ensure that HUD, HHS, and GSA develop a “one-stop” electronic database and listserv to publicize available properties.
- Mandate that GSA establish uniform requirements for property transfers as opposed to the current practice of negotiating responsibility on a case-by-case basis. Examples of potential issues to be included are environmental cleanup or lead abatement.
- Require HUD to develop a grant program for construction and rehabilitation of Title V properties, funded from 5% of the net proceeds of federal property sales.

- Make additional HUD-owned properties available through Title V. Examples of such properties are the “HUD Homes” once insured by FHA and now the property of HUD following foreclosure.

Preserving Rights For Homeless Persons Under Proposals To Eliminate Title V

We believe that the case to preserve and strengthen Title V is strong. Three of the legislative proposals under consideration by this Committee—the Civilian Real Property Alignment Act proposed by the Office of Management and Budget, H.R. 1734, and H.R. 665—would make the goal of ending homelessness shared by the Federal government and the Law Center significantly more difficult to achieve. These proposals threaten the existence of a longstanding and successful anti-homelessness program without providing any evidence of the cost savings their proponents use to justify the damage to Title V. Consequently, we cannot support any of these proposals in their current form. The fourth proposal before the Committee today, H.R. 1205, does not threaten the rights of homeless service providers, and so we do not oppose it. However, we believe that H.R. 1205 could be improved if it were expanded to include the Law Center’s legislative proposals for real property reform. We will outline our primary concerns below, along with our recommendations for improvements.

Civilian Property Realignment Act: H.R. 1734 & Office of Management and Budget

The Civilian Real Property Alignment Act, H.R. 1734, like the White House Office of Management and Budget’s proposal, would both eliminate Title V rights and instead create a “BRAC-like” board or commission that would consider whether to have each surplus property either sold / demolished / otherwise disposed of or sent to HUD for a determination of whether it is suitable for homeless use and whether a homeless service provider wishes to acquire it.

- We are concerned that the proposed Board/Commission would have no representatives of homeless persons, service providers, or advocates. We recommend the addition of language providing that at least two members of the Board/Commission must be people with experience in advocacy on behalf of homeless persons or in providing housing or services to homeless persons.
- We are concerned that the proposed Board/Commission would result in the elimination of Title V’s most critical statutory right – the requirement that all federal surplus properties be considered for use to provide homeless assistance. Instead, the proposal would require (at minimum) a majority vote (4 out of 7 members) to agree to allow a property to be evaluated. A majority vote is too high of a burden for homeless service providers to meet. We recommend that a property must be offered to homeless service providers if a single member of the Board/Commission requests it. Consistent with their roles and responsibilities as Board/Commission members, is it highly unlikely that any presidential appointee to the Board/Commission would make a frivolous or dilatory request. Instead, it is anticipated that Board/Commission

members would only act in response to a reasonable request from a homeless service provider in the community where the property is located.

- We are concerned that the deadlines governing the proposed Board/Commission do not offer enough notice of the Board/Commission's planned actions to permit the development of well-informed public comment. We are also concerned by other deadlines, including the amount of time that homeless service providers would have to apply for properties. We recommend that 30 days' notice be required when the proposed Board/Commission publishes information about which properties it is evaluating, in advance of a public hearing to receive comments about those properties. We also recommend that the proposed Board/Commission be required to preserve Title V's 60-day period for homeless service providers to submit a notice of interest to apply for property.
- We are concerned that while the Civilian Property Alignment proposals would hurt local efforts to end homelessness in the name of revenue enhancement, those projected cost savings would not in fact occur. The Congressional Budget Office has concluded that creating a civilian BRAC would not result in more federal real property being sold than under the current legal framework, while establishing the Board/Commission and implementing its policies would cost \$420 million between 2012 and 2016.

While we do not favor the proposed BRAC-like approach, we have already presented these recommendations to Committee staff, in an effort to preserve minimal procedural guarantees for homeless service providers should this Committee elect to pursue legislation modeled on these proposals. We look forward to discussing them in more detail.

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

H.R. 665 would create a pilot program granting the Director of the Office of Management and Budget sole discretion over the disposal of excess federal real property assets for a ten-year period. The program gives the Director the authority to identify and dispose of federal real property that no longer meets the needs of the government according to criteria developed by the Director. It explicitly suspends much of the existing legal framework for disposing of federal real property, including Title V.

- We are concerned that, rather than addressing the well-known problems with the real property disposal system with a permanent fix that integrates the solutions laid out by the Law Center above, this proposal creates a temporary demonstration program that fails to address the needs of homeless persons in any way.
- We are concerned by the level of discretion granted to the Director of the Office of Management and Budget in this proposal. The Director's incentives—for-profit sale—and those of homeless service providers seeking Title V properties

are at direct cross-purposes. Given that the Director's power to exempt valuable properties from Title V would be unchecked for the duration of the pilot proposal, there is no reason to believe that homeless service providers would have any meaningful access to the limited number of genuinely useful properties that become excess during that ten-year period.

H.R. 1205: Federal Real Property Disposal Enhancement Act of 2011

H.R. 1205 would create a pilot program that exempts a narrow set of properties from the Title V process in order to expedite their sale. Specifically, it would apply only to properties that the federal government intends to demolish, located on land that the government intends to keep, and are inaccessible to the general public because of national security concerns, or properties that are uninhabitable. H.R. 1205 would not be harmful to homeless persons and the providers seeking to offer them housing and support services. Accordingly, we do not oppose it. However, we do have thoughts on how it could be improved.

- We are concerned that H.R. 1205 represents a missed opportunity to pass permanent, comprehensive improvements to Title V. While the properties exempted from Title V by H.R. 1205 are not likely to be of use to providers, integrating our additional proposed changes would streamline the program from the perspective of the federal government, while improving the application process for homeless service providers.
- We are concerned that H.R. 1205, like H.R. 665, responds to the issues surrounding real property disposal with a demonstration program. We understand how to make this process work better, and consequently favor a long-term solution that will not have to be revisited for many years.

Conclusion

Congress has recognized that the federal government has a “clear responsibility and ... existing capacity to meet the basic needs of all the homeless.”⁶ For nearly 25 years, Title V has granted homeless service providers the right to access unwanted property at no cost to landholding federal agencies. As the Committee takes a broad look at reforming the federal real property disposal process, there is no reason to retreat from this commitment, particularly when it is not necessary in order to meet the reasonable goal of increasing government efficiency.

Certainly, it would be counterproductive to eliminate this program in favor of establishing a new bureaucracy that the Congressional Budget Office has estimated would not only fail to raise the billions in revenue its proponents have claimed, but would

⁶ McKinney-Vento Homeless Assistance Act of 1987, 42 U.S.C. §11301(a)(6) (2010).

actually cost the taxpayers an additional half-billion dollars.⁷ Title V is an effective way of ensuring that, even when budgets are tight, service providers can use the government's empty properties to respond to the needs of all of our citizens.

We welcome the opportunity to continue working with this Committee on legislation that would preserve the ability of homeless service agencies to provide additional affordable housing and supportive services, while increasing efficiency in the federal property disposal process. Such legislation would benefit all homeless persons and all other key stakeholders.

Thank you for allowing us to submit this statement. Should you wish to discuss it further, please contact our Policy Director, Jeremy Rosen, at (202) 638-2535 or jrosen@nlchp.org.

⁷ Letter from Douglas W. Elmendorf, Director, Congressional Budget Office, to Honorable Darrell E. Issa (June 27, 2011).

Mr. KELLY. Thank you, Ms. Foscarinis.
Mr. Moravec, please.

STATEMENT OF F. JOSEPH MORAVEC

Mr. MORAVEC. Good morning, Mr. Chairman and Ranking Member Cummings and members of the committee. My name is Joe Moravec. I have spent most of my career in the commercial real-estate industry as a broker, manager, and owner of commercial property and commercial real-estate services companies.

From June 2001 through July 2005, I had the privilege of serving my country as the commissioner of GSA's Public Buildings Service, a position——

Mr. KELLY. Mr. Moravec, I am sorry, is your mike on? Or maybe just move closer. We are not hearing you.

Mr. MORAVEC. From June 2001——

Mr. KELLY. Thank you.

Mr. MORAVEC [continuing]. Through July 2005, I had the privilege of serving my country as the commissioner of GSA's Public Buildings Service, a position for which I was well-prepared professionally. As public buildings commissioner, my goal was to apply well-proven, private-sector asset-management practices to improving our agency's performance as a real-property manager.

Prior to 2002, GSA did not have, by private-sector standards, a consistent, comprehensive, or measurable approach to investing appropriated funds in the repair and alteration of its inventory of owned properties. In simple terms, capital improvement funds were spread yearly over the entire portfolio without adequate consideration of whether buildings were capable of meeting the long-term programmatic needs of the agencies they housed or, indeed, whether they were viable as financial assets. Buildings of marginal utility were improved to perfection, and buildings housing critical functions were often neglected. The backlog of deferred maintenance, in the absence of a disciplined resource allocation process, continued to swell.

Our team developed detailed profiles of every single property in GSA's portfolio. We determined whether there was a long-term Federal need for the property and assessed whether the rent our agency customers were paying us justified reinvesting in it and, if so, at what level of investment.

What emerged was a triage ranking of GSA's entire inventory, which divided the portfolio into three tiers of assets. The top tier was comprised of buildings for which there was a clear long-term Federal need. Investment in these buildings would result in a sustainable rental income, providing GSA with capital for continued reinvestment in their upkeep. These buildings merited reinvestment; they could stand on their own.

The middle tier were buildings which could be made into sustainable financial assets by judicious reinvestment as outlined in individually approved asset management plans. The lowest tier consisted of buildings which were beyond hope. These went immediately into the disposal process.

This new discipline of looking at buildings as financial assets, just as a private-sector owner would, had a profound impact on the Public Buildings Service organization and the behavior of our pro-

fessional managers. Our people understood the new rules, and an agency-wide consensus informed by a sense of urgency developed around what separated valuable assets from those ready for disposal. Property disposals accelerated, and, since then, GSA has disposed of hundreds of its own buildings, representing millions of square feet and translating into hundreds of millions of dollars of savings to the taxpayer. Today, GSA has very few empty buildings in its inventory.

The moral of this success story is that good disposal policy grows out of good, disciplined lifecycle asset management. Moreover, even without any statutory reform, the disposal mechanism which GSA administers for itself and across government can produce results once bureaucracy understands the rules and is motivated to put individual functionally or physically obsolescent properties serving no programmatic purpose into the disposal process.

The chief impediments to timely and aggressive disposal of surplus Federal properties are these: One, Federal executives have inadequate financial incentive to declare properties excess and turn them over to GSA for disposal. Agencies incur front-end costs which are often not reimbursed. And in the absence of special legislative authority, they do not get to retain sales proceeds even if their property makes it to the open market and has any market value.

Two, a disposal process itself is attenuated and Byzantine. Statute and regulation, including adherence to rigid environmental standards, community benefit criteria, and historic preservation considerations, all of which are all desirable from a social perspective, obviously, virtually ensure that disposals become public-benefit conveyances or negotiated sales with little or no economic benefit to the Federal Government as seller.

Three, politics and truths—or as they say in government, external shareholders, including Members of Congress, special interest and advocacy groups and State, county, and local officials—have ample opportunity to intervene, slow down, and redirect the process to achieve lots of results, except returning money to the Federal Treasury.

A BRAC-style approach to Federal property disposal such as the administration and Representative Denham have proposed would have several distinct advantages over the present system. It would require by law that agencies produce real lists of excess properties. It would provide the framework for intergovernmental dispute resolution and administering the process so often lacking now. It would insulate the process from extraneous and unproductive political interference, and it would be measurable, requiring a specific outcome within a finite timeframe. These are all salutary results.

I would add only a few cautionary notes. First, keep expectations real. With rare exceptions, most of the government's disposable property, as CBO has correctly reported, has limited market value. This is particularly true if the property must be offered to public entities at little or no cost.

Second, ensure that agencies have enough upfront money to participate and to discourage malicious compliance. This means not only providing funds to defray the cost of bringing properties to market, but the related and potentially much larger costs of replac-

ing through consolidation and colocation Federal workplaces eliminated by disposal.

Third, do not underestimate the challenges of applying a BRAC-like discipline, which was created to serve one agency, albeit a huge agency, with one mission to the entire government. Across dozens of agencies with very diverse missions and constituencies.

Fourth, remove to the greatest extent supportable or feasible, the many statutory and regulatory roadblocks to bringing properties to the market. If a private sector result is expected, constraints on the Federal Government that would not constrain a private seller need to be modified, replaced, or suspended, as proposed in Representative Chaffetz's bill.

And finally, know that the implementation by law, the wholesale approach to disposal of surplus Federal property will have, I believe, the undesirable practical effect of slowing down or even stopping other ongoing disposal activity under present law, until it can take effect. So once implemented, it really needs to work.

Thank you for the opportunity to provide testimony on this critical subject, so very timely as we as a country struggle as never in modern times to reduce the cost of government. I am, of course, available to answer your questions.

Mr. KELLY. Thank you, Mr. Moravec.

[The prepared statement of Mr. Moravec follows:]

Good morning, Chairman Issa and members of the Committee. My name is Joe Moravec. I have spent most of my career in the commercial real estate industry as a broker, manager and owner of commercial property and commercial real estate services companies. From June, 2001 through July 2005, I had the privilege of serving my country as the Commissioner of GSA's Public Buildings Service, a position for which I was well prepared, professionally.

As Public Buildings Commissioner, my goal was to apply well proven private sector asset management practices to improving our agency's performance as a real property manager.

Prior to 2002, GSA did not have- by private sector standards- a consistent, comprehensive or measurable approach to investing appropriated funds in the repair and alteration of its inventory of owned properties. In simple terms, capital improvement funds were spread yearly over the entire portfolio without adequate consideration of whether buildings were capable of meeting the long term programmatic needs of the agencies they housed or, indeed, whether they were viable as financial assets. Buildings of marginal utility were improved to perfection and buildings housing critical functions were often neglected. The backlog of deferred maintenance, in the absence of disciplined resource allocation, continued to swell.

Our team developed detailed profiles of every single property in GSA's portfolio; determined whether there was a long term federal need for the property; and, assessed whether the rent our agency customers were paying us justified reinvesting in it, and if so, at what level of investment. What emerged was a triaged ranking of GSA's entire inventory, which divided the portfolio into three tiers of assets.

The top tier was comprised of buildings for which there was a clear long term federal need. Investment in these buildings would result in sustainable rental income, providing GSA with capital for continued reinvestment in their upkeep. These buildings merited reinvestment. They could stand on their own. The middle tier were buildings which could be made into sustainable financial assets by judicious reinvestment as outlined in individually approved asset management plans. The lowest tier consisted of buildings which were beyond hope. These went immediately into the disposal process.

This new discipline of looking at buildings as financial assets (just as a private sector owner would) had a profound impact on the Public Buildings Service

organization, and the behavior of our professional managers. Our people understood the new rules and an agency-wide consensus, informed by a sense of urgency, developed around what separated valuable assets from those ready for disposal. Property disposals accelerated and since then, GSA has disposed of hundreds of its owned buildings, representing millions of square feet and translating into hundreds of millions of dollars of savings to the taxpayer. Today, GSA has very few empty buildings in its inventory.

The moral of this success story is that good disposal policy grows out of good, disciplined life-cycle asset management. Moreover, even without any statutory reform, the disposal mechanism which GSA administers for itself and across government can produce results once the bureaucracy understands the rules and is motivated to put individual functionally or physically obsolescent properties serving no programmatic need into the disposal process.

The chief impediments to timely and aggressive disposal of surplus federal properties are these:

- (1) Federal executives have inadequate financial incentive to declare properties "excess" and turn them over to GSA for disposal. Agencies incur front end costs which are often not reimbursed, and in the absence of special legislative authority, they do not get to retain sales proceeds, even if their property makes it to the open market and has any market value.
- (2) The disposal process itself is attenuated and byzantine. Statute and regulation, including adherence to rigid environmental standards, community benefit criteria and historic preservation considerations, virtually insure that disposals become public benefit conveyances, or negotiated sales with no economic benefit to the federal government, as seller; and,
- (3) Politics, or as they say in government "external shareholders", including members of Congress, special interest and advocacy groups, and state, county and local officials, have ample opportunity to intervene, slow down and redirect the process to achieve every result, except returning money to the Federal Treasury.

A BRAC style approach to federal property disposal such as the Administration and Representative Denham have proposed, would have several distinct advantages over the present system. It would require by law that agencies

produce real lists of excess properties. It would provide the framework for intra-governmental dispute resolution in administering the process, so often lacking now. It would insulate the process from extraneous and unproductive political interference. And it would be measurable, requiring a specific outcome within a finite time frame. All salutary results.

I would add only a few cautionary notes.

First, keep expectations real. With very rare exceptions, most of government's disposable property, as CBO has correctly reported, has limited market value. This is particularly true if property must be offered to public entities, at little or no cost.

Second, ensure that agencies have enough upfront money to participate and to discourage malicious compliance. This means not only providing funds to defray the costs of bringing properties to market but the related and potentially much larger costs of replacing through consolidation and co-location federal workspace eliminated by disposal.

Third, do not underestimate the challenges of applying a BRAC-like discipline, which was created to serve one agency (albeit huge) with one mission, to the entire government, across dozens of agencies, with very diverse missions and constituencies.

Fourth, remove to the greatest extent supportable or feasible the many statutory and regulatory road blocks to bringing properties to the market, including public benefit conveyance and McKinney-Vento requirements. If a private sector result is expected, constraints on the federal government that would not constrain a private seller need to be modified, replaced or suspended, as proposed in Representative Chaffetz's bill.

And finally, know that implementation by law of a wholesale approach to the disposal of surplus federal property will have, I believe, the undesirable practical effect of slowing down, or even stopping, other ongoing disposal activity under present law until it can take effect. So, once implemented, it really needs to work.

Thank you for the opportunity to provide testimony on this critical subject, so very timely as we as a country struggle as never in modern times to reduce the cost of government. I am, of course, available to answer your questions.

Mr. KELLY. At this time, the chair recognizes the gentleman from Oklahoma, Mr. Lankford.

Mr. LANKFORD. Thank you, Mr. Chairman. Thank you all for being here and allowing us to have some input into this and some conversation back and forth on it. I just want to have some conversation on it.

On an independent board set up to be able to take these issues on, my question is: Is that needed, or what I am hearing from your conversation, do we really need to clean up the rules that GSA has to function under already? And anyone can start taking that on. But I'm hearing some say the whole process is very slow because of—I love the term—the Byzantine rules that are in place to be able to deal with this.

So are we creating some independent agency which will at some point have its own Byzantine rules at some point, or do we need to just clean up the GSA process to streamline this?

Mr. MORAVEC. Speaking for myself, I am skeptical, like apparently you are, about creating a new bureaucracy to do the work—

Mr. LANKFORD. That we have an existing bureaucracy to do.

Mr. MORAVEC [continuing]. That often fails and costs a lot of money. BRAC works because it was one agency and really had one challenge, and that worked reasonably well. The BRAC process, by taking the workings of this outside of the framework of government in a sense, does in fact insulate it from many of the things that impede its efficient function.

Mr. LANKFORD. Politics.

Mr. MORAVEC. Politics being the principal one.

Mr. LANKFORD. Right. But do you think that is the principal issue here is the politics of it? Or is the principal issue here how slow and difficult and tenuous it is to go through all the requirements that GSA is now having to labor under?

Mr. MORAVEC. The latter.

Mr. LANKFORD. That is what I'm asking. An independent board seems to be solving the wrong problem here.

Mr. MORAVEC. I think that what is needed, as has been previously testified by three of the four witnesses on this panel, are incentives for Federal managers to declare property excess and to move it into the—swiftly into the disposal chute. I think the law needs to be either suspended or modified or streamlined to an extent that it—in a way that is, obviously, not irresponsible, when it is deemed to be impeding the process.

And finally, we really do need to insulate it from interference. I mean, right now it is a very open process and it is not unlike procurement. Once the government decides to procure something and enters into a formal procurement process, it is insulated from politics in my opinion.

Mr. LANKFORD. Right. I understand.

Several of you mentioned the incentive issue, and you can respond in your answer, but my first question is—well, if you choose to. The incentive issue also brings up its own dynamic as well. I'm not interested in having agencies hold onto properties in case there is a lean year, when at some point Congress cuts their budget and so they are banking properties over here, saying if it ever gets lean, I've got my own stockpile of money basically in real property that

I can sell and then have more money at that point, if you understand what I mean.

So how do we deal with incentives without creating a property bank for different agencies to be able to have and sell at their whim?

Mr. FOLEY. I would like to just step back to the first question. I think the disposal process as it is set up now, there are a lot of steps, and it can take some time. But at GSA we have figured out how to navigate that process. And many of the screenings we do simultaneously while we are doing other due diligence to prepare—

Mr. LANKFORD. How long does that take? Not counting listing it, getting it out, how long does that take to go through that process?

Mr. FOLEY. Right now it is comparable with private sector. And so it depends on the type of disposal. And it can be—you know, when we get to the point of sale, as I mentioned in my opening statement, anywhere from 60 days all the way to, you know, as much as 6 months. But where we tend to hit the pause button is where we get a lot of those competing stakeholder interests, and there are discussions back and forth of is it eligible for this, you know, public benefit, or should it go for this use or that use. And so that is really what the board was designed to try and help do, is insulate from that.

On your second question in regards to the retention and proceeds, I think at this point the majority of the work we do at GSA happens to be for agencies that can retain proceeds. And as CBO pointed out, many agencies find it cheaper to hold onto a property in a given year and pay the minimal operating cost as opposed to prepping something for sale where there could be significant upfront investment.

So something like the administration's proposal or some of the other bills that provide a way to cover some of those upfront costs and provide an incentive for agencies to—where they can get some of the benefit back—to recover those costs they may have to make in those properties to get them ready for sale it is critical to, I think, getting many of these properties broken loose. I don't see it as a big land bank right now. I think there is really an economic disincentive to agencies disposing of property.

Mr. LANKFORD. Okay. Thank you. You're going to make a comment on that as well?

Ms. FOSCARINIS. Congressman Lankford, I would like to address your question as well.

Mr. LANKFORD. Sure. Yeah. I just have a few seconds left, so—

Ms. FOSCARINIS. On the first point, I think the answer is not to create a new board or a new bureaucracy but to streamline the current process. And on the comment that was just made, it is not because of competing stakeholders, certainly not because of Title V, which is our concern here, that the process is Byzantine or takes a long time. Title V adds a matter of mere months, and what it does is ensures that public resources, Federal properties, are used for what is a public need and a growing public need and a national priority, which is addressing homelessness. That is not the cause of the delays. The 14,000 properties have not—have already gone

through Title V, almost all of them have, and they are not holding up the process.

Mr. LANKFORD. Okay. Thank you. Thank you. I need to yield back my time.

Mr. KELLY. Thank you, Mr. Lankford. The chair now recognizes my colleague and friend from Virginia, Mr. Connolly.

Mr. CONNOLLY. I thank the chair and I want him to know that my Great Grandfather Kelly would be so proud to know there is a Kelly in the chair. He might even be proud if his great grandson were in that chair, but that is—at any rate.

And I want to thank the ranking member, Mr. Cummings, for being so gracious in letting me go. And welcome, all of you. And I particularly want to thank Ms. Foscarinis for being here, because you're a great witness to the fact that there are considerations other than maximizing our profit when we talk about the disposal of excess property.

In Northern Virginia, we have examples of incredible positive results by careful disposal of a property, an excess property; namely, the old Lorton Federal Prisonsite. And then we have examples where it didn't work out so well, the GSA site in Springfield, which is where the MARC Center should have been put, and unfortunately it wasn't, and we are now going to face catastrophic results in terms of transportation on the I-95 corridor here in the National Capital Region.

And if you look at Lorton, one of the things that created unbelievable economic energy, an arts foundation in the prison workhouse, a new world-class golf course, lots of new open space and playing fields and new trails, the preservation of almost 2,000 acres. Nonetheless, it generated in the immediate vicinity enormous economic activity: new town centers, new residences, new commercial centers. It is now the fastest growing part of my community. Ten years ago it was the—it was losing population and it was lagging behind any other part of Fairfax County in terms of economic activity.

But what gave us that energy? It was the fact, the willingness of the Federal Government to sell that property to the local government at below market rate. It generated jobs and economic activity and it had incredible positive externalities. But had we stuck to a rigid standard, that sorry, that property has to be disposed of at market rates, it absolutely would have had to have been developed in ways that were not consistent with community goals and, frankly, would have done economic harm.

And so my question to you all is—and I noticed the Quigley bill sort of has a provision, and I think this is a conservative principle, Mr. Chairman, not just a Democratic or Republican principle. Let's take into account the realities on the ground and the needs and wishes of the local governments, because they know their communities best. Because we can be a force for good in the disposal of excess property and we can also, frankly, unwittingly be a factor of not so good.

So I just open that up to the panel and would welcome your reactions to that proposition.

Mr. FOLEY. Sure, Congressman. We certainly appreciate the local community interests. And my experience has shown that successful

property disposition requires a ton of outreach and partnership with the local community entities. And I think in any of these proposals you would still have to have that for a successful property disposition. I think even in instances where a property, you know, could go to a homeless use, or you might not see the proceeds from the sales, there are tremendous benefits to the government in terms of reduced operating costs and maintenance for many of these facilities where there is no longer a need, and from the consolidation and different uses of those properties.

So, for instance, the government has thousands of properties across the country where they have locations for field offices in every community. There are different ways of doing business now, and a lot of the work can be done on line and through different mechanisms. So, looking at does it make sense to still have all those properties across the country, or is there a way to consolidate that or do it differently that could free up many properties for disposal? And even if they did go for a homeless use or another public benefit conveyance, there would still be significant cost savings for the Federal Government and the taxpayer.

Ms. FOSCARINIS. Yes, thank you for that comment, Congressman. I think you are absolutely right. It is not just about maximizing proceeds. It is also about a longer-term approach and how the properties can be used for the greater public good and also to generate savings. Because in the case of Title V, service providers who take the properties, who get the properties, take on the operations and maintenance costs, which are now or otherwise being borne by the Federal Government. So that is a cost saving, and they are also providing an important public good.

And in Northern Virginia for example, there is also the Carpenter Shelter, which is providing services and a place to stay for working homeless men and women. That is incredibly important in helping people become productive members of society again.

Mr. CONNOLLY. I thank you. Mr. Chairman, my time is up. But while you were out of the room, I was just pointing out that your predecessor and my predecessor, Mr. Davis, and this committee have a great success story in working with GSA in the disposal of the Lorton property. And although we didn't maximize proceeds in the actual transfer to local government, the economic activity it generated more than made up for that. It is one of the great success stories of how to do it carefully, I think, as we proceed in this whole subject. And I thank the gentleman.

Chairman ISSA. I thank the gentleman. Would the gentleman yield?

Mr. CONNOLLY. Of course, Mr. Chairman.

Chairman ISSA. You know, this is one of the reasons early on in the hearing that I said to our three earlier witnesses how much I appreciated what was in their bills but questioned some of the things that were not in their bills. And clearly their desire for speed, because speed ultimately means we save money sooner, has to be offset with the consideration of the best good, not just the highest dollar. So that is part of where this committee is going to make sure we blend some of their suggestions with some ideas like yours.

Mr. CONNOLLY. I thank the chairman, and I couldn't agree with him more. And I look forward to working with him on this issue.

Chairman ISSA. Thank you. With that we go to the gentleman from Arizona, Mr. Gosar.

Mr. GOSAR. Thank you. I'm going to go across the board with this, and then I am going to kind of make a real brief statement. Arizona, as you know, is heavily laden with Federal inventory of not only lands but also buildings, okay, not only from a private sector but from a Native American sector, okay, for the BIA. I see a working relationship not just in capitalization of selling to the private industry, but also to local communities.

I want to bring up that, you know, we have been underfunded with our secure programs, our PLL programs. It has been diminishing because of our restrictions on our national lands multiuse aspects. So I see this in a different perspective and actually have engaged in local communities, county governments, and city governments to inventory Federal buildings in which to take in lieu of. And I think this works extremely well, particularly in a State like Arizona, that the proceeds from our natural resources and from our Federal and State lands go to our schools and go to some of our health care issues—very similar to like Wyoming and Alaska.

Tell me, how you would streamline, particularly in inventory, a first right-of-refusal to communities of interest, like cities and towns and counties? How would you streamline and what would you streamline in the situation so that we could have that aspect or further this process down? I'm not just interested in homeless people because, you know, I'm from Flagstaff. Very large amounts of Federal ground, very limited amounts of private ground. We need to have the working families being able to afford—the teachers. We need to have people being able to afford to stay and live there, maybe as a stepping stone to see generational kids that want to stay in towns, to be able to move into a segment that is maybe a lower-rent district's Habitat for Humanity, whatever it may be, that is conditional with the local and State entities.

Tell me how you would proceed and what do you see the roadblocks are? And how could we get that first—first from the private sector—not private sector, but with cities, counties? And second, from the BIA, which is even more important to me? I think it is even more streamlined and can be very much more quickly for the BIA because of the self-determination rules that exist. And we'll start with you, Mr. Moravec.

Mr. MORAVEC. Thank you. I would say first I, like some of the members are, I'm skeptical of huge financial benefits coming out of this process. I mean, the real advantage to the Federal Government is savings in terms of expenditures for maintenance. But as a practical matter, there are things that need to be done to reform the process, and that is what I think your question is focusing on.

I was very pleased to hear Ms. Foscarinis mention when talking about Title V that there needs to be—that one step might be to immediately exclude properties that were clearly not suitable for housing the homeless. I mean, that would be a great step in the right direction, rather than putting it through an intragovernmental, interagency process involving HUD and GSA

and other shareholders. If there could be a way of focusing quickly and achieving consensus very quickly on whether a property was suitable for homeless, and then removing it from the process if it wasn't, would be a very big step in the right direction.

I think another way would be to limit the time that external or local shareholders have to make their views known, to sort of cut off the debate when it wasn't leading to a fruitful or productive outcome. As Deputy Commissioner Foley testified, that really is where the delay is. The properties sort of get into this limbo land where there is no way of resolving the disputes or the competing interests of groups for claiming a property that has been declared surplus.

Mr. GOSAR. Could you see a hierarchical aspect, a first right-of-refusal, particularly when you look in lieu of taxes, particularly what we have seen from secured schools and PLLs, that the counties and cities have an advantage or a State has an advantage over or—

Mr. MORAVEC. I think it would be very difficult to establish a template or an inflexible hierarchy. That is essentially what we have now. I think each individual asset is different and deserves to be treated as an individual problem; and the solutions can be very different, asset by asset.

So I would be—I would be hesitant to—to establish a right-of-first-refusal protocol just that then again would be—try to apply—would be applied in a wholesale way.

Mr. GOSAR. I'm running out of time.

Ms. FOSCARINIS. We do suggest streamlining the process so that properties that are clearly not suitable are excluded. For example, national security properties, contaminated properties, properties inside secure facilities, military properties, or inside military facilities. We also suggest publishing the list of properties on line as opposed to in the Federal Register, and publicizing them through a LISTSERV and a data base electronically.

We are also suggesting requiring the Federal agencies to provide greater outreach and support to applicants. Right now this is a very cumbersome and difficult process and the applicants are typically an unsophisticated shelter, or other service providers. Greater support would allow these providers to more quickly complete the process and would streamline it.

Mr. GOSAR. Don't you think—don't you think—I am sorry.

Chairman ISSA. The gentleman can have 30 additional seconds.

Mr. GOSAR. Okay. Don't you think that—a wonderful point to revolutionize it, it would be the Native Americans because of the unique treaty obligations that we share with them and the BIA constraints on that. To me it seems like it is a perfect fit to demonstrate ownership to the tribe in the Self-Determination Act that actually is a first step of maybe revolutionizing how we look at these inventories, because you need to deal strictly with the tribe first and then the individual entities.

I disagree that the homeless is the number one aspect because I think you also have to have the empowerment of economies for the tribes that associate both.

And then I also think that you look at the veterans' aspects of empowerment as well. So those are my two cents worth and I'd like

to get—you know, I have run out of time but I would love to have your additional comments for the record.

Ms. FOSCARINIS. Okay. May I—

Chairman ISSA. You may have the time you need to respond.

Ms. FOSCARINIS. Okay. Wonderful. Thank you very much. I like that.

Congressman, I'm not familiar, unfortunately, with the specific constraints on tribes or requirements, but I do know that tribes certainly suffer from homelessness and poverty, and that is a very, very critical issue. Veterans as well—many homeless people are veterans, and so it is very important that we address that issue.

I think the larger point is to allow these properties to be used for any kind of permanent housing, not just—right now it is limited to homeless shelters or services for homeless people or permanent supportive housing. But we are advocating for the expansion to permanent housing per se so that a broader swath of needs can be met.

Chairman ISSA. Thank you. Sorry, Mr. Labrador. But we are now going to the former chairman of the full committee, Mr. Towns.

Mr. TOWNS. I would be delighted to yield a minute. Mr. Chairman, I would yield him 30 seconds.

Chairman ISSA. It is all yours.

Mr. LABRADOR. Thank you, Mr. Chairman. I was just going to yield my time to Mr. Gosar, so we will wait.

Mr. TOWNS. I reclaim my time. I reclaim my time.

Chairman ISSA. We—you understand, we have a lot of formality in our informality sometimes.

Mr. TOWNS. Thank you very much.

Mr. CONNOLLY. And way too much comedy, Mr. Chairman.

Mr. TOWNS. Thank you very much, Mr. Chairman. First of all, you know, I'm happy to see you, Ms. Foscarinis. I knew Stew McKinney, he was a very good friend of mine. Of course I remember the work in those days.

And, of course, let me begin by we established that tens of thousands of properties are languishing in the Federal inventory without being sold, and some agencies may blame Title V, the process, for slowing down their ability to dispose of property.

For example in 2008, the Department of Veterans Affairs reported that GAO—that the requirements for the McKinney Act can add as much as 2 years to the disposal process.

Ms. Foscarinis, recognizing that you're one of the primary architects of the McKinney Act, I want to address a few questions to you. Does the screening process for Title V require that agencies screen Federal properties for use by nonprofits serving the homeless, even when the property is entirely unsuitable for the purpose?

Ms. FOSCARINIS. Congressman Towns, it does not. But unfortunately the way—the language does not, but the way that the program has been interpreted, the screening process is, in our view, overly broad, so that properties come into the process that clearly are not suitable. And that is one of our recommendations. We think it could be streamlined.

But I don't think that that is the main problem or that Title V is the cause of the delays or the reason why all those properties are now languishing. In fact, the majority of almost all of those

14,000 properties that are now languishing, that have been referred to by a number of witnesses, they have already been through the Title V process. Title V is not the problem.

Mr. TOWNS. So what is the problem?

Ms. FOSCARINIS. Well, I'm not an expert on the entire Federal property disposition process, but I am familiar with Title V and I know that Title V is not holding up the process. The process happens after Title V and the—and that is a process that—that is a question that needs to be addressed to the other pieces, the other—the agencies that deal with that process.

Mr. TOWNS. Well, most people here today seem to agree that the current property disposal process is not working. What would you suggest we change to improve the disposal process and to make it work more efficiently? What are your ideas?

Ms. FOSCARINIS. Well, Congressman, I think as far as Title V is concerned, much can be done to speed up and streamline the process so that properties that are potentially suitable to help homeless people are quickly identified, so that the agency support applicants in a process—which, as I mentioned, the applicants are often very unsophisticated, underresourced nonprofit organizations. Additional support from the Federal agencies to help them complete the process would be—would help streamline that process.

I think as well that making available resources from the Federal Government—for example, we have proposed 5 percent of sales from all Federal property dispositions could be used to support the homeless service providers in applying for and operating their programs on the property. That would help expedite it.

Mr. TOWNS. Mr. Foley, let me ask you the same question.

Mr. FOLEY. Sure. I think as I testified, the three main areas that we need to do to improve the Federal disposition process for real property are: One, we need to provide incentive for agencies to dispose of unneeded and underutilized property; two, we have to have a way to help fund some of the upfront costs that are required, whether it is through consolidation or cleanup of property or just basic work to get it ready for sale; and then, three, we have to figure out how to deal with the competing stakeholder interests that can delay the process down the line.

So again, it can be after screening and as you get down into figuring out what is going to happen to the property next. And so that is really, I think, the three areas where we can make a big difference and improve the process.

Mr. TOWNS. Well, you know, I think that the three bills that have been put forward, you know, really, really could help in a lot of ways. But still I see some problems, you know, as we move forward, even with the three bills that we talked about earlier today. So, Mr. Chairman, I think we still have a lot of work to be done, but I think that is a framework that we could start from and that we can do a lot better than what we are doing. So thank you. I yield back.

[The prepared statement of Hon. Edolphus Towns follows:]

**Committee on Oversight and Government Reform
Hearing on July 27, 2011, at 9:30 a.m.
“Disposal of Federal Real Property:
Legislative Proposals?”**

Statement of Mr. Towns

Thank you Mr. Chairman for holding this important hearing on federal real property disposal. Through the years, our Committee has been a leader in focusing the spotlight on the deficiencies that exist in real property management and attempting to find bipartisan solutions to these difficult issues.

We are here today to examine the very genuine, costly and pressing problems the federal government has disposing of its unneeded real property – its public buildings and lands. As GAO has indicated by placing this issue on its “high risk” list, problems abound. Unneeded and under-utilized buildings are languishing in the federal inventory instead of generating much needed revenue through disposal. Maintenance of these buildings cost the government nearly \$1.7 billion in fiscal year 2010 alone. In tough times like today, the federal government must pursue every avenue to rein in spending and generate revenue.

In March, the Obama Administration proposed the Civilian Property Realignment Act as a solution to the problem of disposing of excess federal property. The proposal builds on the model successfully used in the past

for disposing of Department of Defense properties. The Administration believes that the proposal will be successful because it eliminates the three primary obstacles standing in the way of efficient real property management: red tape, financial disincentives, and political considerations. The Administration also estimates that the proposal can result in \$16 billion in revenue over a four year period. If these estimates true, this proposal could be a great help in reducing the nation's deficit.

Two members of this Committee, Representatives Quigley and Chaffetz, along with Chairman Denham of the Transportation Committee, have introduced bills that attempt to deal with some of the problems in disposing of federal real property. I look forward to their testimony as we explore the different approaches to solving this problem. I also want to thank our other witnesses, for bringing their expertise and insights to bear on pathways toward a solution of speedy, efficient property disposal.

Waste of taxpayer dollars in maintaining unneeded federal buildings is an issue that we must work hard to address. At the end of the day I look forward to having a bill that everyone can support.

Chairman ISSA. I thank you and very much agree we can. Mr. Labrador.

Mr. LABRADOR. Mr. Chairman, I yield my time to Mr. Gosar.

Chairman ISSA. I'm shocked. The gentleman is recognized.

Mr. TOWNS. I don't object to that.

Chairman ISSA. Sure.

Mr. GOSAR. I want to continue my line down to hear your ideas.

Mr. FOLEY. Absolutely. First BIA. They do have standing in the current Federal disposal process. And I believe it happens at the Federal screening. So Department of the Interior would express an interest on behalf of the tribe. So they do have an opportunity before it even gets to the point of the public benefits.

Mr. GOSAR. Unfortunately that doesn't work because there is not—there is not an outlined procedural aspect to allow them to debate—to actually challenge that ruling. It is almost an absolute ruling, and that can't work. So there is something wrong. So keep going.

Mr. FOLEY. Sure. And I think, you know, a lot of the items that my colleagues here on the panel mentioned are critical. I think determining upfront which properties really are suitable for which entities, so you don't have a rigid process that requires screening of properties we all agree may not be suitable. And we do have some flexibility with many of the screening processes. So, for instance, if it is not near an airport, we wouldn't do an airport screening. So figuring out how we determine which properties are most suitable, putting more strict time limits on. I think the actual limits for the screening process for homeless is only about 60 days, and 30 days for many of the others.

So it is not really the process itself. As you mentioned, it is when there is a dispute or a discrepancy and then trying to sort through and figure those pieces out.

I think, third, as Ms. Foscarinis mentioned, clearly anything we can do to improve transparency in community outreach and outreach to our partners is critical so that they understand which properties are available, they understand what the uses are. And we have a better understanding upfront which screenings and which uses would be most appropriate for that type of property.

Mr. GOSAR. Ms. Gullo.

Ms. GULLO. I don't know much about the BIA's role in this process, but it sounds to me that we are talking bureaucratic issues that could potentially be solved through changing the existing process, and you wouldn't necessarily need a new civilian board or something to address and resolve some of those issues.

But as Mr. Foley pointed out, a lot of the problems end up coming in terms of local stakeholder interests that sometimes conflict with what other people want to do with the land. And that can often slow things down and even prevent property from getting exchanged or given to people.

Mr. GOSAR. Well, don't you—I mean, to me—look, I am a business guy. And, you know, I'm also from the nonprofit arena as well. So there's—there's some risks that you take. And when you start looking at this in competing ventures, particularly when we are putting the handicap about the homeless—I've got a big heart, don't get me wrong. But you have to make this into a play that ac-

tually is competitive. And that is that if we are going to make sure that everything is—if I sell my house, okay, I have to look at—and somebody wants to buy it, we go through a negotiation, okay. Dr. Gosar, we don't like this about the house, we want you to give this in compensation for upgrades, da-da-da-da-da.

We ought to be doing that at the Federal level, not adjudicating this thing where we are going to have to handicap it and put more additional money here. We want to allow the competing factors to bring assets to the table. We can't hold everybody's hand. We are in a financial crisis here and we have to empower people to fix things, to be at the bargaining table, to put risk in the game.

Which brings me to my next point. It seems to me like we have a contractual hierarchy already, okay, because we have established—particularly in the Western States, because—you know, like in my State of Arizona, we have 60 percent—72 percent in my district that is federally owned for multiple use. So it seems to me that the hierarchial aspect there is first for disposal, is to education, communities, State land, counties, cities, and smaller entities. That is how it has to go.

That seems to me that we ought to be dialoguing first at the State level, and State by State, to include them into that risk pool, because we have had contractual obligations. And I'm not a lawyer, but I do understand something about contracts, is they are not subservient usually to other whims. They are contractually the hierarchal aspect. So I would hope that you would look at—and I may further some other questions to you—look at it in that vein. How do we structure this maybe to expedite a contractual obligation not only to our States, but to our counties and cities in the expedition of these properties?

So thank you. I have run out of time.

Chairman ISSA. I thank you. I recognize myself now for a round of questioning. Oh, I'm sorry. The gentleman is recognized.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. The Congressional Budget Office and the White House have very different estimates of the potential revenue that could be generated through the President's proposed Civilian Property Realignment Act. The White House estimates the proposal would generate more than \$15 billion in additional gross receipts over a 5-year period. Over that same 5-year period, CBO estimates that implementing the President's proposal would cost \$420 million in additional. This is quite a large discrepancy.

Mr. FOLEY, would you explain how you arrived at the \$15 billion estimate?

Mr. FOLEY. Certainly. The administration's proposal, we looked at as broad a range of savings as we could possibly get. So everything from proceeds when we sell a property to eliminating operating costs when you no longer have a property in Federal use, to cost avoidance for future renovations that we would have to do. And then another component that I think is critical to that is consolidations as well.

I mentioned previously where there are opportunities to, you know, downsize and get rid of three locations and move to one, or six locations and move to one potentially. And so when you look at

all of those factors, there are—I think the potential for cost savings are enormous.

Mr. CUMMINGS. So you have—so you don't—you go beyond just what it would be sold for. You're going to all of those other things.

Mr. FOLEY. Correct. When we are talking about the \$15 billion number, it is not just direct sales proceeds of dollars that would be received back from property that would be sold.

Mr. CUMMINGS. Well, why is the CBO's estimate so much different?

Mr. FOLEY. We certainly respect CBO's opinion. And I think that, you know, the way they looked at the legislation, they even recognize that there would be cost savings to those. I think it gets down into the interpretation of what happens as a result of those cost savings. So, are the funds actually still given to agencies, or is there a change in the appropriations? And I don't want to speak for CBO—

Mr. CUMMINGS. She can speak for herself. But I'm just curious; what is the difference? Do you know?

Ms. GULLO. Well, I think that Mr. Foley is correct; that our job is to look at the net effects on the Federal budget over a certain time period. And we do think that a proposal such as the President's proposal for the civilian board would increase receipts by a modest amount. The problem is that by allowing some agencies that currently are not allowed to keep their proceeds from sales—and that money goes 100 percent to the Treasury under current law—this proposal would allow those agencies to keep 40 percent of the proceeds. So right there you have a net cost to the Treasury. Again, we think that is fairly small because the bottom line is we don't see over the next 5 years that there is a stock of properties that are going—that are valuable enough to produce a large enough receipt to the Treasury that is really going to net out against those types of costs.

We do agree that there could be savings in operation and maintenance costs over time. Those costs are only going to get realized to the Treasury—to the government, however, if future appropriations are reduced. So again, from CBO's point of view, you have the difference between direct spending and discretionary savings, which—so it is just a matter of those different pots of money. It is very hard to see and calculate those types of O&M savings. We are not saying they would not accrue to the Treasury. But unless you can see in the future that total appropriations will be reduced by that amount of money, then the government hasn't really reduced the deficit at all.

And we have seen that with the BRAC process. BRAC has surely resulted through consolidations in lower O&M costs, but you certainly can't see that by looking at O&M spending by the Defense Department. It has continued to go up. So in order to calculate those savings, you would have to know what the costs for O&M would have been without BRAC. And that is sort of a counterfactual that is pretty hard to calculate.

So we think that there are savings. I actually think that over the next 10 years, the idea that we would save \$15 billion, even in reduced O&M costs, if what we are talking about is getting rid of excess properties, is unlikely because the average maintenance costs

of those excess properties is actually fairly low. The high costs come in those underutilized properties, and the underutilized properties are going to be harder to get ready for sale and dispose of. And that is where you could start seeing some significant O&M savings from consolidating and then getting rid of some of those underutilized properties. But that is going to be a harder thing to do.

Mr. CUMMINGS. I'm sure the economy is going to get better, but in Baltimore we have a dispute going on right now, right now, with regard to building some—a new State Center for all the State offices because there is so much vacant property downtown. So the vacant property owners downtown are saying, wait a minute, why are you building new buildings when we have all this vacant property? I mean, your estimates—do you take into consideration the fact that there is already a lot of private problems right now, particularly with commercial properties and things of that nature?

Ms. GULLO. Well, I certainly think those issues go to estimates of what the value of a particular property is, absolutely. And that will—could sometimes depress the average values of properties, Federal properties that might be available in that area.

Mr. CUMMINGS. Okay.

Mr. FOLEY. Can I just add one more thing? I think that, you know, another area of savings is in the lease inventory. So an example at GSA is our headquarters building that we are renovating and we intend to improve the utilization. Prior to the renovation, we had about 2,500 people assigned to the building. After the renovation, we are going to have 6,000 people assigned to the building. So that is going to eliminate O&M costs in a few Federal facilities. It is going to eliminate lease costs that we are currently paying the private sector for space that we are occupying. And I think there are a lot of opportunities out there like that, that are contemplated under the administration's bill, that are hard to score what the direct benefits are. But there are potential tremendous millions and millions and billions of dollars' worth of savings that are out there, because that is one small example right here.

Chairman ISSA. Thank you. I'm going to continue with the ranking member's line in a number of ways. But, Ms. Foscarnis, I'm going to ask you—in one of your proposals, which would be for HUD to be required to develop a grant program for construction rehabilitation of Title V properties funded at 5 percent, let me ask you the crux of sort of the program as it has been versus the program as it could be.

If you received a percentage greater than your current percentage you actually historically received, a percentage either in cash or—obviously, you could use that cash—those chits to bid on properties, but you were simply a bidder, would that streamline your system? So you wouldn't look at a building unless you wanted a building. You wouldn't care if a tribe was picking up a piece of land, a city was picking up a piece of land, you would essentially get a commission out of the decommissioning process that would buildup a fund, probably administered by HUD, that would result in grants where you could go, or at least the homeless in general could apply for grants that would allow them to pick the location

and the least cost and most efficient place to take care of homeless needs.

Is that the system that if this was a perfect world, we would use this funding mechanism to provide you with options?

Ms. FOSCARINIS. Chairman Issa, I appreciate the question. Our recommendation is for a fund in addition to—

Chairman ISSA. I know it is. And I am not going there.

Ms. FOSCARINIS. Okay.

Chairman ISSA. And I'm not going there for a reason. That is subject to an appropriation that is easy to talk about and unlikely to be easy to achieve. And it is one of the reasons that as we are looking at property disposal, we are looking at you historically getting about 2 percent of property. And as you say, rightfully, you get the property, you get it late, you get it in sometimes not so great condition, certainly not in as good a condition as you looked at it at the beginning of the process, and then you take over maintenance and utilities and so on.

I'm looking and saying if we in this process have an opportunity to streamline the system and to help the homeless be better off than they are from a dedicated pool of money, then we on this committee have the ability to do what we cannot do if we are subject to appropriation.

We can have all the discussion we want, but if I author a bill, the ranking member authors a bill, it is going to be subject to appropriation and it is going to be subject to other committees' jurisdiction. That is one of the reasons I asked you a more focused question is, I'm looking, saying, What is it that we can do for you?

Ms. FOSCARINIS. Well, we have focused on the property itself because we feel that in many communities, access to a piece of property is really key. And it is—we have not been open to this point, to the idea of instead of the property, substituting money, because we feel that the property is important and it gives an important resource to groups who otherwise might not have access to it.

Chairman ISSA. And we are assuming in many cases that you would use this fund at HUD and the grants provided from that fund to bid on those properties. But you would be bidding with sort of this earmarked money. If today you're getting 2 percent and the fund is 4 percent, now you have a grant process administered where they are looking at the needs of various communities; they're prioritizing the community certainly that needs homeless shelters. Perhaps they're looking disproportionately at whether also our opportunity because of land or building, but it is administered by the agency that we expect to look at the homeless problem to where, quite frankly, in Mr. Gosar's district, the disposal of land with some buildings that may or may not—they may be way out there. They may be of no value, but they are part of the pool.

On the other hand, in Mr. Cummings' district, it may be or may not be that the building being delivered is of any value to you, but it is in the right area. So you have both the option of bidding on the building and the option of—to the grant limit, whatever, you know, HUD was going to make available. But basically HUD would be your partner sitting there saying, we are going to pay what we need to pay to get this building.

And I'm not prejudging whether that would be a true option or an appraised value or some other system. What I'm viewing is it would be quick because you would have your partner and you would have this pool of money.

Mr. Cummings and I would say, you know, the politics are out of it; we are not trying to force a decision in our community. We are looking and saying we have an agency, they have an allocation of money from all dispositions that gives a predictability greater than it is today. And, quite frankly, that money would allow you to have what you are asking for here, which is this 5 percent net proceed. We can talk about 5 percent, 2 percent. It is not important for the percentage. But the idea is it would be built in a single fund where you would be, in fact, generating both the purchase acquisition, if you will, and the renovation.

I'm not sure we can get to 5 plus 2, which is what your arithmetic adds up to, or 7 percent, you know, or 2 percent of the material—of the disposition and then 5 percent of the proceeds.

Ms. FOSCARINIS. Right. That is assuming, of course, that 2 percent is the right number.

Chairman ISSA. It is just a historic number and that is what I want to improve from.

Ms. FOSCARINIS. Right. I understand. We need to look at that in detail as a specific proposal. Our concern about substituting money for buildings is that there are already appropriations through HUD and through other Federal agencies to assess homeless persons. They are not sufficient by far. I mean, the funding now is vastly oversubscribed. Our concern is we don't want this resource, which is a different type of resource, to become part of that mix of appropriations where, you know, we can cut or not significantly increase other HUD funding because—while we have this other pool of money and that goes into the overall mix. That is our concern.

And there is also a separate concern about the property itself. And many communities having a building makes a big difference because community groups face issues like NIMBYism. They face opposition. These buildings are typically—because they are Federal property, they can more easily—and they are being used for a Federal purpose. They can bypass some of that community opposition and allow—give greater strength to the group trying to use them. So there are reasons why the property matters.

However, you know, we are open to discussing any proposal. We need to take a look at the specifics of it.

Chairman ISSA. Sure. I would like your thoughts as we go through this process. Like I say, I jumped onto the 5 percent, but I knew that, in fact, there is a certain point at which the appropriator starts saying we are not going to let that happen. So we want to make sure we steer clear of it.

Ms. Gullo, there's a number of things that I'm interested in. In your report, which is already in the record, you come up with some interesting figures as to Mr. Foley's organization's scoring. Forty-five percent of the buildings listed, the structures were already on the list, so half of his 15 billion, if we assume all things being equal. So we are double-counting potentially, or counting what has previously been counted. Twenty-eight percent of the buildings in your study are probably going to be demolished, which I hope they

didn't score them before demolishment; 20 percent have already been disposed of and are no longer considered excess. That part certainly is going to affect the 15 billion. Six percent have already been slated for conveyance at little or no cost to other public entities. And less than 1 percent of the properties, a total of 30, are expected to be available for sale. And there are only, you know, what, 30 sales of them; the highest was \$2.5 million. Is that also part of your belief, that there isn't that much there, there?

Ms. GULLO. Yes, sir. I mean, basically I think what that—what that data base shows is existing stock of excess properties. And I think many of those, as we pointed out, are already in the process of being disposed of. And I think the point we were making—there are two. First of all, most excess properties end up getting demolished and a fairly small percentage are actually sold. And that property doesn't have a lot of value.

So the point we were trying to make there is that in order to see receipts anywhere close to in the billions of dollars, you would have to identify significantly more valuable property and dispose of that through sales in order to get receipts of 15 billion. If what you are talking about are avoided O&M costs, then you could achieve avoided O&M costs with properties that aren't as valuable.

Chairman ISSA. But aren't a lot of these properties—they are basically being shuttered, and in many cases the maintenance is not sufficient to maintain them at a usable level. So the truth is they are depreciating very, very quickly. These are buildings with leaky roofs, broken windows. They just try to stop the vandalism pretty much. That's, as Mr. Quigley mentioned, that's what you see a lot, isn't it?

Ms. GULLO. Yeah. That is our impression. I mean, Mr. Foley could probably speak on that.

Chairman ISSA. Mr. Foley, I misstated. I realize OMB's numbers. Let me just share with you something, and I know I'm going on, but if I'm kind of the last I might get away with it.

You know, I took a team down to Puerto Rico to look at Roosevelt Roads. Now, that was worth—and this is BRAC, but it was worth about \$2 billion estimated at the time of closing. Today it is worth about 2 cents. All of the electrics have been damaged or destroyed. And they estimate \$110 million just in copper having been looted. And this is, by the way, where there were guards on the place, military operations still going on in small pockets of a large base. The giant iguana have destroyed the road structure considerably, and they just keep trying to patch them so the cars can go over them just to inspect things. People implanted in the middle of the base, little pockets of new military, thus making it impossible to sell the land in a way in which a developer would want to be there.

To be quite frank, you don't necessarily want the National Guard Armory right on the beach. But that is where they put the Army National Guard, was right on the beach. So needless to say, for the casino or the resort or anybody else, it wasn't—it is no longer very good. And on top of that, we spent as much as \$110 million a year to maintain it with these guards and so on. Well, \$60 million worth of power plant that had contamination has never been cleaned up. So the Governor is looking forward to having it transferred to him

at no cost, not much value, and we still have to do the \$60 million on the power plant. That is my basis for concern.

In addition to—and, Ms. Gullo, I'm not so sure that you actually very quickly get that savings. I was at Fort Ord as a young Army officer, obviously a long time ago, but I watched it get closed. On the day it closed, I watched the carpenters continue to put new roofs on brand-new buildings still under construction. We find a way to spend money even after we close things.

I have one or two more quick questions. The American people see that we have this excess property. Currently the inventory, and Mr. Foley more currently, and Mr. Moravec, historically, isn't our biggest problem that we abandon property or choose not to go to it while we lease property down the street?

I can show—the FBI chooses to be in a nice tower building in the city where we have excess military installation because there is no structure to say, from a command-and-control standpoint, no, you will go to what we own if it is good enough; no, you may not rent what you want if we can in fact provide it cheaper.

And, Mr. Foley, isn't that really part of the authority the GSA would need to start really reining in the selective "I've got my budget, I'm going where I want to go" type mentality and bureaucracy?

Mr. FOLEY. I think our process right now does look at do we have existing Federal properties first. But the biggest challenge often with those facilities is there is a cost to convert them. So you mentioned the FBI. If you have to put in SCIF space or do something to improve the security around it, there is a cost to that. And finding the resources upfront to be able to do that is often the biggest challenge versus going out and leasing where, you know, it is just an annual rental payment. So you're looking at, in some cases, hundreds of billions of dollars to renovate an existing Federal facility or convert it for use, versus an annual rental payment, you know, of \$3 or \$4 million.

Chairman ISSA. Right. For example, if we took the GSA and we made you a leasing agent, and we took you off budget for a moment—in the perfect world, we take you off budget. We make you a landlord.

Mr. FOLEY. We will take it.

Chairman ISSA. It ain't going to you personally. And instead of looking at the capital cost of buying or the capital cost of renovating, we look at the competitive rent versus rent avoidance. So now we are actually scoring against your competitor, the private sector competitor. And I'm as private sector as anybody that will ever sit on this dais.

But I will give you an example—Moffet Field. We have donated huge amounts of tracts to schools and everybody we can think of, while in fact major Federal agencies are sitting in very expensive space in San Jose, Santa Clara, and the area. Why? Well, I can't quite figure it out. It is not that I don't want to do good, but those agencies could have been told the GSA has land behind a secure gate. We already have NASA and highly classified programs there. We can put you behind that gate. We will put you behind that gate, and we will meet your requirements as we see for renovation. Maybe capex was part of it, but quite frankly, our per-year cost—

we have tenants that pay almost nothing for land that—and facilities they normally wouldn't have taken, except it was almost free. And we are not talking homeless in this case. You can't afford to be homeless in San Jose as it turns out.

Don't we need to change that system so that we don't score—and this is really a CBO thing. Can't we get to where we score it in a 10-year window or a 20-year window so that we are not constantly trying to look at these capexes.

My bases have, including Camp Pendleton, have PPV. PPV is a good program because of a bad accounting system that we live under. The idea that we pay somebody 50 years' worth of a guaranteed lease so that they will make the capex so we don't have to, and it scores cheaper for us, is a disingenuous way of doing it. But the fact is the appropriators won't guarantee they will do the MILCON every year; and there is no agency that has the ability to say, look, we can compete and really meet this cost at the same or less, but we are not able to compete.

Ms. GULLO. Congressman, we agree with you on the issue of capital leases. When we see legislation that would authorize and allow for that kind of a long-term lease, CBO's scoring will score that up—the full cost of those upfront. I mean—so we agree with you.

Chairman ISSA. You're stuck with the existing way of scoring because we have given it to you.

Ms. GULLO. Right. But I think—and that is not always the way. If it is an ongoing lease that is just for, you know, annual leases, then those are scored just on a cash basis each year. But we do tend to take that view, that if we are entering into a long-term capital-type lease, we would score that up front, the full cost of that, so that it is a little bit more comparable to what we would have to pay or appropriate to build a building.

Chairman ISSA. You try to normalize it as best you can. But PPV exists because of government's failures, not because it was inherently cheaper for the private sector to build barracks on my bases.

Mr. MORAVEC. I think that is right. I would add—I mean, the reasons that the government leases space as opposed to constructs it or finds a way of people putting in owned space is several. It begins with the fact that it is much easier to get the money from Congress for a lease because of budget scorekeeping rules and because of the availability of funds than it is to federally construct or acquire space.

Second, it is much faster. The private sector actually is much faster at producing a finished facility that supports the mission of the tenant agencies than the public sector. It just is.

And the final thing is that the agencies actually prefer to be in private, modern, efficiently run space, as opposed to having to force themselves to accommodate their mission to an existing federally owned installation. In your Moffet Field example, that would be—that is a great example except that—of course, it begs the question: Where does the money come from to build the facility behind the fence? Okay. The land is free, but where does the money come from to build a—in many cases, a special purpose building? That is one other thing I want to mention. A lot of these Federal buildings are not just plain vanilla office space.

You mentioned the FBI. An FBI building is a very special-purpose building. It has anti-progressive collapse technology in the way it is developed. It is typically on a very large site. It gives standoff distances to the surrounding areas. It has hardened curtain walls, blast-resistant glass, a lot of special functionality. And it is just—you can't just move into a regular office building and turn it into that kind of facility, especially given the Federal Government's requirements with regard to security in the post 9/11 era and with regard to environmental sustainability, which are both highly laudable social objectives. When you add those factors in, it really adds to the cost of building a Federal building.

Chairman ISSA. Did I mention that the FBI took one of the shacks—I am sorry—one of the old buildings at Roosevelt Roads because they could? And we don't know what they are doing there, and we can't find out.

I want to thank the ranking member. This was an unusually long set, and he was patient to hear me out.

We thank you for both your comments on some other areas and on this. The committee is committed to help in both parts, the property disposal and trying to create a situation in which new acquisitions, whether leased or purchased, can be better thought out to save the American taxpayers' money.

And, with that, we stand adjourned.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

