

FEDERAL ASSETS SALE AND TRANSFER ACT OF 2016

MAY 23, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4465]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4465) to decrease the deficit by consolidating and selling Federal buildings and other civilian real property, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE OF LEGISLATION

The purpose of H.R. 4465 is to save taxpayer money by shrinking the federal real property footprint by selling or redeveloping high value properties, consolidating federal space, maximizing utilization rates, and streamlining the disposal of unneeded assets.

## BACKGROUND AND NEED FOR LEGISLATION

H.R. 4465, the Federal Assets Sale and Transfer Act of 2016, improves the management of Federal real property by consolidating and selling underutilized federal buildings and other civilian real property.

### *Opportunities to reduce costs*

Given the vast real estate holdings of the federal government, poor asset management and missed market opportunities cost taxpayers significant sums of money. For this reason, in 2003, the Government Accountability Office (GAO) placed real property management on its list of “high risk” government activities, where it remains today. Among the reasons GAO lists federal real property as high risk are “excess and underutilized real property” and “unreliable property data.” While significant attention has been paid to addressing these issues, GAO noted in its 2015 “High Risk series” report that, “the federal government continues to maintain too much excess and underutilized property.”<sup>1</sup>

The high risk activities related to federal real property are significant; however, consistent and accurate data continues to be a challenge in measuring the full costs to the taxpayer. Considerable amounts of vacant or underperforming real estate assets can translate into significant costs associated with the operation, maintenance, and security of those properties.

Domestically, the federal government owns more than 254,000 buildings<sup>2</sup> comprising a total of 2.5 billion square feet of space with an annual operating cost of \$14.4 billion.<sup>3</sup> The total amount of underutilized or vacant real estate has not been accurately ascertained likely due in large measure to poor data and inconsistent reporting requirements.<sup>4</sup> For example, in fiscal year 2009, the number of underutilized buildings was 45,190, comprising 341 million square feet of space costing \$1.66 billion.<sup>5</sup> However, in fiscal year 2010, there were 77,000 buildings comprising 490 million square feet listed as underutilized or vacant, costing \$1.66 billion annually.<sup>6</sup> While those were global numbers (domestic and non-domestic), in the most recent Federal Real Property Summary Data Set for 2014, which accounts for only domestic properties, 5,000 buildings are listed as underutilized or vacant. This does not in-

<sup>1</sup> *GAO High Risk Series*, GAO-15-290 (2015), p. 135.

<sup>2</sup> This figure excludes land and 477,000 structures, costing \$7.8 billion annually, such as utility systems, roads and bridges, and parking structures.

<sup>3</sup> FY 2014 Federal Real Property Profile Summary Open Data Set.

<sup>4</sup> See *Federal Real Property: Excess and Underutilized Property is an Ongoing Challenge*, GAO-13-573T (April 2013); *Federal Real Property: Strategic Focus Needed to Help Manage Vast and Diverse Warehouse Portfolio*, GAO-15-41 (November 2014).

<sup>5</sup> *Federal Real Property: The Government Faces Challenges to Disposing of Unneeded Buildings*, GAO-11-370T, (February 2011).

<sup>6</sup> *FY 2010 Federal Real Property Report*, Federal Real Property Council, p. 6. See also *Disposal of Unneeded Federal Buildings: Legislative Proposals in the 112th Congress*, Congressional Research Service, August 6, 2012.

clude all property categories and reflects only 43 percent of the total buildings. The same fiscal year 2014 Data Set lists 31,465 “assets” as not currently needed, including buildings and structures.

*Reducing the real estate footprint*

Both the Committee and the Administration have been working to reduce the costs of office space by improving the space utilization rates of agencies and reducing their real estate footprint. Large real estate acquisitions, over \$2.85 million annually, must be authorized by the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works. Since the beginning of the 113th Congress, through efforts to get the General Services Administration’s (GSA) tenant agencies to improve their space utilization, the Committee has authorized projects that will potentially result in up to \$3 billion in savings to the taxpayer through lease cost avoidance, reduction of previously-authorized projects, and consolidations.

The Administration has also issued directives to reduce the amount of real estate used by federal agencies. On June 10, 2010, the Administration issued a memorandum directing agencies to accelerate efforts to identify and eliminate excess properties. On March 14, 2013, the Office of Management and Budget (OMB) issued a Management Procedures Memorandum prohibiting agencies from increasing the total square footage of their domestic office and warehouse inventory compared to their fiscal year 2012 baseline—in effect requiring agencies to freeze their federal real property footprint. More recently, on March 25, 2015, OMB issued a directive for agencies to reduce their office and warehouse space by aggressively disposing of properties and making more efficient use of space. At the same time, the Administration released the *National Strategy for the Efficient Use of Real Property*, which proposed a five-year, three-step strategy to improve the efficiency and cost-effectiveness of federal real estate. The three-step approach includes freezing the footprint, improving the quality of data to more accurately analyze and measure opportunities, and reducing the footprint through accelerated disposals and improved space utilization.

Unfortunately, despite executive orders and memoranda issued during two administrations and acts of Congress intended to improve the management of federal real property, these problems persist.<sup>7</sup> The GAO has noted in recent years the continual problem of retention of excess and underutilized properties, despite efforts by both the Administration and Congress to reduce the amount and costs associated with unneeded properties.<sup>8</sup>

There are a number of examples of high value vacant and underutilized properties sitting for years, if not more than a decade and, only after action by the Committee either through hearings or legislation did GSA begin to take action. These include, for example,

<sup>7</sup> See, for example, Executive Order 13327, *Federal Real Property Asset Management*, signed by President George W. Bush, February 4, 2004; Presidential Memorandum, *Disposing of Unneeded Federal Real Estate*, signed by President Barack Obama, June 10, 2010; Public Buildings Cooperative Use Act of 1976; Public Law 108–447, Division H, Title IV, Section 412, December 8, 2004 (providing enhanced flexibility to GSA in real property management).

<sup>8</sup> See *Federal Real Property: Continued Efforts, Legislation, and Implementing GAO Recommendations Could Address Challenges*, GAO–15–689T, June 16, 2015; *Federal Real Property: Excess and Underutilized Property Is an Ongoing Challenge*, GAO–13–573T, April 25, 2013.

in Washington D.C. the West Heating Plant in the Georgetown area, the Old Post Office on Pennsylvania Avenue, and the Cotton Annex located right off the National Mall. Despite sitting in prime locations, these assets sat for years and, in two cases, were vacant yet were never disposed of, costing taxpayer money to maintain them. In the case of the Old Post Office, despite being used, the building was underutilized and GSA lost revenue on the property every year. Only through legislation directing GSA to redevelop that property, did GSA finally take steps to do so.

*Hurdles to reducing the real estate footprint and the solution*

Over the years, the issue of getting federal agencies to sell or dispose of underutilized and unneeded properties has been a focus of GAO investigations, congressional hearings, and actions by administrations. Various hurdles to disposing of properties have been identified, including:

- *Upfront costs to agencies*—Preparing the properties for disposal costs money. For example, there are costs related to surveys, environmental assessments, and cleanup.
- *Cumbersome disposal process*—The current disposal process can be cumbersome and time-consuming, particularly for larger, more valuable assets, creating a disincentive for agencies to dispose of unneeded properties.
- *Land-banking of high value assets*—Either as a result of the costs, disposal process, or because an agency believes it may require space at some unspecified point in the future, agencies may hold on to higher value assets.
- *Real estate activities may be required*—Many valuable properties used by agencies may be underutilized; however, in order to make properties available for sale or disposition, money may be needed to relocate, consolidate, or acquire space to move the agency operations.
- *Poor data and property management*—Agencies may not maintain accurate data about their properties and space utilization, making it more difficult to identify properties available for disposal.<sup>9</sup> In addition, agencies may not be in a position to determine if use of the property is optimized. For example, if a small government building sits in a larger, valuable plot of land, the building itself may be fully utilized, but the property underutilized, and may provide more value to the taxpayer if sold and the agency consolidated into other space.
- *Prioritization*—Other than the GSA, property management is not a part of the core mission of most agencies, and, as such, working to identify and make available underutilized properties may not be a priority.

These hurdles not only cost the taxpayer money given ongoing maintenance and operation costs and unrealized return from selling them, but they minimize the number of properties made available for other public purposes, such as serving the homeless.<sup>10</sup>

<sup>9</sup> *Federal Real Property: Better Guidance and More Reliable Data Needed to Improve Management*, GAO-14-757T (July 29, 2014).

<sup>10</sup> Written Statement of Maria Foscarinis, Executive Director, National Law Center on Homelessness & Poverty, Subcommittee on Economic Development, Public Buildings, and Emergency Management hearing on “Saving Taxpayer Dollars in Federal Real Estate: Reducing the Government’s Space Footprint,” June 16, 2015.

While GSA and some tenant agencies have begun to take steps to improve their space utilization, consolidate, and reduce their space footprint, resistance remains. In order to promote better utilization of space, realize financial returns on under-used high value assets, and improve efficiency, including energy efficiency, H.R. 4465 was introduced. The legislation is intended to create a process that would independently establish space standards, apply them to the federal inventory, and provide a streamlined manner to ensure actions are taken by agencies to reduce the federal real estate footprint.

H.R. 4465 is intended to save taxpayer money by selling and redeveloping high value assets, consolidating facilities, maximizing utilization rates, and increasing the use of efficient space. H.R. 4465 would require the Board established in the legislation to examine federal real property across government—used and unused—and make decisions based on the best return to the taxpayer.

#### *Public Museums*

Federal Management Regulations (FMR) require a museum to be open for at least 1,000 posted hours annually in order to qualify as a public museum eligible to receive surplus property. The public policy principle behind this requirement is to ensure that surplus property is available to the public, but this principle can be satisfied in other ways. The Committee believes that the FMR regulation requiring that a non-profit museum have at least 1,000 posted hours in order to receive surplus property is arbitrary. The Committee believes the legislative language in Section 23 makes it clear that the Administrator consider a public museum eligible for surplus property if the organization accedes to any request submitted for access during business hours.

The Administrator has a prominent role in executing the Administration's Freeze the Footprint Policy<sup>11</sup> and subsequent Reduce the Footprint Policy.<sup>12</sup> Both of these policies have been designed to reduce the federal real estate footprint with a specific focus on reducing the amount of warehouse space. Flexible criteria for the eligibility of non-profit museums to receive surplus property allow the Federal government to more easily dispose of surplus property and reduce the need for warehouse space. Changing the rules that governs a museum's eligibility to receive surplus property will achieve the dual policy goals of reducing the amount of Federal warehouse space needed and sharing surplus property with the public.

#### *Conclusion*

The management of federal real property was a challenge even before appearing on GAO's High Risk list. The costs of real property are significant and most agencies do not have the incentives to minimize those costs. Properties sit vacant or woefully under-utilized, not only costing taxpayers billions of dollars but often are eye sores in local communities. And, despite the current budget cli-

<sup>11</sup>*Implementation of OMB Memorandum M-12-12 Section 3: Freeze the Footprint*, Office of Management and Budget, March 14, 2013.

<sup>12</sup>*National Strategy For the Efficient Use of Real Property 2015-2020*, Reducing the Federal Portfolio through Improved Space Utilization, Consolidation, and Disposal, Office of Management and Budget, March 25, 2015.

mate, many agencies continue to hold onto properties they do not need, reducing efficiency and increasing costs. H.R. 4465 is intended to bring an independent process to the management of federal real property.

#### HEARINGS

The Subcommittee held a number of hearings during the 112th Congress on subject matters contained in H.R. 4465. In the 114th Congress, the Subcommittee held a hearing specifically related to H.R. 4465. In particular, the Subcommittee held the following hearing:

*“Saving Taxpayer Dollars in Federal Real Estate: Reducing the Government’s Space Footprint,”* held on June 16, 2015. Witnesses included, Representatives Jeff Denham and Jason Chaffetz, the Honorable David Mader, Controller, Office of Management and Budget, Mr. David Wise, Director, Physical Infrastructure Team, U.S. Government Accountability Office, Mr. Norman Dong, Commissioner, Public Buildings Service, General Services Administration, and Ms. Maria Foscarinis, Executive Director, National Law Center on Homelessness and Poverty. The hearing examined the issue of underutilized and vacant federal properties, costs to the taxpayer, challenges to selling or disposing of unneeded real property, and methods by which the federal government can reduce its space footprint and save taxpayer dollars by addressing those challenges.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On February 4, 2016, Representative Jeff Denham (R–CA), along with Representatives Chaffetz (R–UT), Shuster (R–PA), Cummings (D–MD), DeFazio (D–OR), Barletta (R–PA), and Carson (D–IN) introduced H.R. 4465, a bill to decrease the deficit by consolidating and selling federal buildings and other civilian real property, and for other purposes.

On March 2, 2016, the Committee on Transportation and Infrastructure met in open session. No amendments were offered. H.R. 4465 was ordered reported by voice vote with a quorum present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 4465.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison pre-

pared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 4465 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 19, 2016.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4465, the Federal Assets Sale and Transfer Act of 2016.

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

Sincerely,

KEITH HALL.

Enclosure.

*H.R. 4465—Federal Assets Sale and Transfer Act of 2016*

Summary: H.R. 4465 aims to better manage federal real property by reducing the inventory of such property and the cost of maintaining the remaining inventory. The bill would establish the Public Buildings Reform Board (board) to provide recommendations to the Office of Management and Budget (OMB) regarding specific federal properties that should be sold. The board would be charged with recommending specific operational efficiencies that could be implemented to reduce the inventory and cost of the government's real estate holdings. The legislation also would authorize the appropriation of \$2 million to fund the board and \$40 million to implement the board's recommendations.

Assuming appropriation of the specified amounts, CBO estimates that implementing H.R. 4465 would cost \$8 million in 2017 and about \$40 million over the 2017–2021 period. If the board's recommendations lead to the sale of facilities, the legislation also would result in additional receipts. However, CBO has no basis to estimate whether the board's recommendations would result in the sale of any properties that would not otherwise be sold under current law. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 4465 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 4465 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effects of H.R. 4465 are shown in the following table. The costs of this legislation fall within all budget functions that contain federal real property other than 050 (national defense).

	By fiscal year, in millions of dollars—					
	2017	2018	2019	2020	2021	2017–2021
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Public Buildings Reform Board:						
Authorization Level .....	2	0	0	0	0	2
Estimated Outlays .....	*	*	*	*	*	2
Asset Proceeds and Space Management Fund:						
Authorization Level .....	40	0	0	0	0	40
Estimated Outlays .....	7	7	7	7	6	34
Other Requirements:						
Estimated Authorization Level .....	1	*	*	*	*	3
Estimated Outlays .....	1	*	*	*	*	3
Total Changes:						
Estimated Authorization Level .....	43	0	0	0	0	45
Estimated Outlays .....	8	7	7	7	6	39

Note: \* = less than \$500,000; components may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the end of 2016, that the authorized amounts will be appropriated, and that spending will follow historical patterns for similar management efforts.

#### *Public buildings reform board*

H.R. 4465 would establish an independent board to recommend to OMB properties that could be sold in order to reduce the inventory of federal civilian real property. The board would consist of seven members appointed by the President. H.R. 4465 would specify two major objectives for the board. First, the board would be required to identify and recommend the sale of at least five federal civilian properties with a combined estimated fair market value of between \$500 million and \$750 million. Second, the legislation would require the board to recommend to OMB opportunities to consolidate, exchange, sell, or redevelop federal properties to further reduce the inventory of civilian real property and to reduce operating costs. All recommendations made by the board would be available to the public on a government website.

Under the bill, the board would terminate after six years. H.R. 4465 would authorize the appropriation of \$2 million for the board's expenses. Assuming appropriation of those amounts, CBO estimates the board would spend about \$2 million over the 2017–2021 period.

#### *Asset proceeds and space management fund*

H.R. 4465 would establish a fund to help agencies cover any costs associated with implementing the board's recommendations. During its six-year term, the board would primarily work with the General Services Administration (GSA) to consolidate, reconfigure, redevelop, or co-locate agency operations in order to make additional properties available for sale. The bill would authorize the appropriation of \$40 million for those purposes. Assuming appropriation of the specified amount, CBO estimates that agencies would spend about \$7 million annually over the 2017–2021 period to pre-



pare federal properties for sale or achieve other operational efficiencies.

*Other requirements*

H.R. 4465 would require GSA and federal civilian agencies to prepare additional reports and recommendations about their real property holding and would require GSA to improve its database of federal property. CBO estimates that implementing those provisions would increase the workloads of GSA and other agencies. In addition, the Government Accountability Office would be required to report on all the recommendations. Based on information from GSA and some landholding agencies, CBO estimates that those activities would cost \$3 million over the 2017–2021 period; such spending would be subject to the availability of appropriated funds.

*Effect on federal property sales*

Under current law, before an agency can offer federal real property that it considers to be surplus for sale to the public, the agency must first offer that property to other federal agencies, state and local governments, and in some cases nonprofit organizations, at no cost. H.R. 4465 would exempt properties recommended for sale by the board from those requirements, except for the purpose of alleviating homelessness. CBO does not expect that exemption would increase the proceeds from selling surplus properties above the expected amounts under current law because other barriers to selling such property will still exist.

Based on information from GSA and other agencies that hold significant amounts of real property, CBO has concluded that there are at least two other obstacles that constrain the amount of property offered for sale and ultimately sold to the public.<sup>1</sup>

- First, agencies generally lack funds to prepare properties for sale, including relocating any users of such properties. To help implement the board's recommendations, the bill would authorize appropriations to cover the costs of moving, consolidating, marketing, renovating property. However, those amounts may not be sufficient to cover such costs. Furthermore, any additional proceeds from sales would depend on the enactment of appropriated amounts and cannot be attributed to this bill.

- Second, many agencies resist efforts to sell property and prefer to leverage the value of their holdings rather than sell them outright. In most cases property-holding agencies do not have access to any of the proceeds from a sale of their property. However, they may have other authorities that enable them to add to their budgetary resources; for example, some agencies can lease unused real property and spend those proceeds on mission-related or administrative purposes. Whether or not the board that would be created by H.R. 4465 could overcome such resistance is unclear.

For these reasons, CBO has no basis to estimate whether the board's recommendations for \$8 billion in changes to the federal government real estate holdings would result in additional receipts.

Pay-As-You-Go considerations: None.

<sup>1</sup>For more information on the barriers to selling federal real property see 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).

Intergovernmental and private-sector impact: H.R. 4465 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On May 17, 2016, CBO transmitted a cost estimate for S. 2375, the Federal Asset Sale and Transfer Act of 2015, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on December 9, 2015. On May 19, 2016, CBO transmitted a cost estimate for H.R. 4465, as ordered reported by the House Committee on Oversight and Government Reform on April 14, 2016. Both versions of H.R. 4465 and S. 2375 aim to better manage federal real property by reducing the inventory of such property and the cost of maintaining the remaining inventory; CBO's estimate of their costs are the same.

Estimate prepared by: Federal spending: Matthew Pickford; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Paige Piper/Bach.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to decrease the deficit by consolidating and selling Federal buildings and other civilian real property, and for other purposes.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 4465 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee finds that enacting H.R. 4465 does not direct the completion of a specific rule making within the meaning of section 551 of title 5, United States Code.

## FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 4465 does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

## APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

## SECTION-BY-SECTION ANALYSIS OF LEGISLATION

*Section 1: Short title*

Section 1 designates the short title of the Act as the “Federal Assets Sale and Transfer Act of 2016.”

*Section 2: Purposes*

Section 2 lists the purposes of the bill to include: reducing and consolidating the footprint of federal buildings; maximizing the utilization rate; reducing leasing where appropriate; selling or redeveloping high value assets; reducing the operating and maintenance costs of Federal properties; reducing overlap in field offices; creating incentives for agencies to achieve greater efficiencies; facilitating sale or disposal of unneeded properties; improving the efficiency of real property transfers for the provision of services to the homeless; and achieving sustainability goals.

The intention of this section is to highlight that real cost savings will only be produced through a combination of actions. While selling off properties already declared excess or surplus may help, many of those properties will realize little net income. Real savings are achieved by consolidations, co-locations, reducing field office overlap and tapping into the value of high value assets. These high value assets would not be of the nature that would be declared excess or surplus. These may be assets that are used to some extent but would produce a greater return to the taxpayer if sold or redeveloped and the federal tenants relocated to less valuable locations.

*Section 3: Definitions*

Section 3 provides relevant definitions used in the legislation.

*Section 4: Board*

Section 4 establishes a Board to carry out duties as described in the Act. The Board would be composed of seven members, including a chairman appointed by the President, by and with the advice and consent of the Senate, and 6 members appointed by the President. The six members would be appointed with input by the House and Senate leadership. The section sets terms for six years and requires that the composition of the members include expertise related to commercial real estate and development, government management or operations, and community development.

The intention of the Committee is to ensure those on the Board include individuals with strong private sector real estate experience that will help identify properties and opportunities for savings.

*Section 5: Board meetings*

Section 5 requires Board meetings to be public and open, establishes what constitutes a quorum, and ensures information is accessible to oversight committees and the GAO.

An open process ensures appropriate input into the process and ensures the public and stakeholders are fully informed. The Committee expects the Board to utilize regional public meetings to help it identify appropriate federal properties and redevelopment opportunities for its recommendations.

*Section 6: Compensation and travel expenses*

Section 6 sets the compensation rate for the Board members and allows for per diem reimbursement of travel expenses related to the work of the Board.

*Section 7: Executive Director*

Section 7 provides for the appointment and compensation of an Executive Director.

*Section 8: Staff*

Section 8 provides for additional staff through personnel detailed from federal agencies.

*Section 9: Contracting authority*

Section 9 requires the Board to use, to the extent practicable, contracts, including non-appropriated contracts, entered into by GSA for services necessary to carry out the duties of the Board. Section 9 also requires the GSA to identify suitable space for the Board and requires the Board to utilize personal property already in the custody and control of GSA.

*Section 10: Termination*

Section 10 terminates the Board in six years.

*Section 11: Development of recommendations to Board*

Section 11 establishes a framework for the development of initial recommendations to be reviewed and submitted to the Office of Management and Budget (OMB) and to the Board. This section also requires the standards developed to incorporate key principles

listed in section 2 and requires the recommendations to be submitted to the Board.

The Board is also given access to necessary property data including the age and condition, operating costs, history of capital expenditures, sustainability metrics, number of federal employees and functions, and square footage. The number of employees and square footage data will ensure the Board can properly evaluate utilization rates. The Committee believes this data is critical to ensuring proper recommendations are developed. This data will assist the Board in evaluating what recommendations will yield the best return to the taxpayer given costs associated with particular properties.

The Committee intends the standards be developed to maximize the reduction and optimization of the federal real property footprint and costs. The standards should result in the co-location of agencies and offices and standard utilizations rates across categories of properties, such as general purpose office space. In addition, the standards should ensure the sale of property at its highest and best use. In particular, the Board should identify high value assets for sale or redevelopment.

#### *Section 12: Board duties*

Section 12 establishes general duties of the Board as identifying opportunities for the government to reduce its inventory and reduce costs, performing an independent analysis, developing final recommendations, and conducting public hearings. This section also sets an initial time for reporting its final recommendations (and then two additional rounds thereafter) to the President. The section requires the Board establish a website and requires the GAO to conduct reviews of the process. Additionally this section requires the Board to recommend not less than \$500 million and not more than \$750 million in savings from the sale of high value properties in the first 180 days.

This section also requires the Board to develop an accounting system to assist in the development of its recommendations. The intention is to ensure there is a standard accounting system to assist the Board in developing recommendations that will produce the highest return to the taxpayer.

#### *Section 13: Review by OMB*

Section 13 establishes a process for review by OMB. It requires OMB to send to Congress its approval or disapproval of the recommendations. If OMB disapproves, the Board is provided additional time to revise its recommendations. If OMB fails to approve recommendations, the process ceases for that round. If OMB approves the recommendations, the recommendations go into effect.

#### *Section 14: Implementation of Board recommendations*

Section 15 requires agencies to carry out the recommendations. It requires all activities to be initiated within 2 years and all actions completed in 6 years, unless notice is provided to OMB and Congress. The bill allows for agencies to take necessary steps to carry out the recommendations, except agencies are required to work within their existing authorities and, if necessary, work with GSA. The Committee expects GSA to be the lead agency with re-

spect to the planning and execution of construction projects needed to execute the Board's recommendations.

Except the initial recommendations related to the sale of high-value assets, all other properties included in subsequent recommendations will be submitted to the Secretary of Housing and Urban Development (HUD). HUD is required to identify any suitable properties for use as a property benefitting the mission of assistance to the homeless for the purposes of further screening pursuant to section 501 of the McKinney-Vento Homeless Assistance Act.

*Section 15: Authorization of appropriations*

Section 15 authorizes \$42 million for the Board and initial costs associated with implementing any recommendations.

The Committee expects the initial funding will facilitate the creation of the Board and fund the initial costs to implement the recommendations. As there are often expenses to prepare properties for sale or to make them available, this is intended to cover those initial expenses. Future year funding is expected to be offset by the proceeds of property sales and redevelopments.

*Section 16: Funding*

Section 16 establishes an account on the books of the Treasury for the salaries and expenses of the Board and establishes an account within the Federal Buildings Fund (FBF) to carry out actions related to the Board recommendations. The FBF account would be funded with proceeds from any action taken pursuant to the Board recommendations.

*Section 17: Congressional approval of proposed projects*

Section 17 amends the Public Buildings Act by requiring prospectuses for future projects, unrelated to Board recommendations, to include a statement describing how the proposed project is consistent with principles in the Federal Assets Sale and Transfer Act of 2016.

This section is intended to ensure that future projects submitted to the Committee by GSA through the prospectus process outlined in the Public Buildings Act also conform to the standards outlined in this legislation.

*Section 18: Preclusion of judicial review*

Section 18 makes clear that actions of the Board and actions taken pursuant to sections 12 and 13 are not subject to judicial review.

*Section 19: Implementation review by GAO*

Section 19 requires GAO, on at least an annual basis, monitor and review the implementation activities of federal agencies related to the Board recommendations.

*Section 20: Agency retention of proceeds*

Section 20 provides for federal agencies to retain net proceeds from the disposal of properties, but such proceeds may only be used as authorized in appropriations Acts for the purpose of covering

costs related to disposals. This section would be effective following the termination of the Board.

*Section 21: Federal Real Property Database*

Section 21 codifies and sets requirements on a Federal Real Property Database. It requires GSA to publish a single, comprehensive, and descriptive database of all Federal real property under the custody and control of all executive agencies, except those excluded for national security reasons. This section requires the database to be available to other federal agencies and, to the extent consistent with national security and procurement laws, accessible by the public at no cost through a Web site.

*Section 22: Streamlining McKinney-Vento Homeless Assistance Act*

Section 22 streamlines the process for identifying and disposing of suitable properties for use to benefit the homeless pursuant to section 501 of the McKinney-Vento Homeless Assistance Act.

*Section 23: Additional property*

Section 23 clarifies the qualifications for a nonprofit museum to receive surplus personal property under the federal disposal process. It requires GSA to consider the level of access that a museum is willing to offer rather than a blanket rule on the number of hours the museum is open and available to the public.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**TITLE 40, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE I—FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES**

\* \* \* \* \*

**CHAPTER 5—PROPERTY MANAGEMENT**

\* \* \* \* \*

**SUBCHAPTER III—DISPOSING OF PROPERTY**

\* \* \* \* \*

**§ 549. Donation of personal property through state agencies**

- (a) DEFINITIONS.—In this section, the following definitions apply:
  - (1) PUBLIC AGENCY.—The term “public agency” means—
    - (A) a State;
    - (B) a political subdivision of a State (including a unit of local government or economic development district);

(C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or

(D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

(2) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(3) STATE AGENCY.—The term “state agency” means an agency designated under state law as the agency responsible for fair and equitable distribution, through donation, of property transferred under this section.

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Administrator of General Services, in the Administrator’s discretion and under regulations the Administrator may prescribe, may transfer property described in paragraph (2) to a state agency.

(2) PROPERTY.—

(A) IN GENERAL.—Property referred to in paragraph (1) is any personal property that—

- (i) is under the control of an executive agency; and
- (ii) has been determined to be surplus property.

(B) SPECIAL RULE.—In determining whether the property is to be transferred for donation under this section, no distinction may be made between property capitalized in a working-capital fund established under section 2208 of title 10 (or similar fund) and any other property.

(3) NO COST.—Transfer of property under this section is without cost, except for any costs of care and handling.

(c) ALLOCATION AND TRANSFER OF PROPERTY.—

(1) IN GENERAL.—The Administrator shall allocate and transfer property under this section in accordance with criteria that are based on need and use and that are established after consultation with state agencies to the extent feasible. The Administrator shall give fair consideration, consistent with the established criteria, to an expression of need and interest from a public agency or other eligible institution within a State. The Administrator shall give special consideration to an eligible recipient’s request, transmitted through the state agency, for a specific item of property.

(2) ALLOCATION AMONG STATES.—The Administrator shall allocate property among the States on a fair and equitable basis, taking into account the condition of the property as well as the original acquisition cost of the property.

(3) RECIPIENTS AND PURPOSES.—The Administrator shall transfer to a state agency property the state agency selects for distribution through donation within the State—

(A) to a public agency for use in carrying out or promoting, for residents of a given political area, a public purpose, including conservation, economic development, education, parks and recreation, public health, and public safety;

(B) for purposes of education or public health (including research), to a nonprofit educational or public health insti-



tution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), including—

(i) a medical institution, hospital, clinic, health center, or drug abuse treatment center;

(ii) a provider of assistance to homeless individuals or to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

(iii) a school, college, or university;

(iv) a school for the mentally retarded or physically handicapped;

(v) a child care center;

(vi) a radio or television station licensed by the Federal Communications Commission as an educational radio or educational television station;

[(vii) a museum attended by the public;]

*(vii) a museum attended by the public, and, for purposes of determining whether a museum is attended by the public, the Administrator shall consider a museum to be public if the nonprofit educational or public health institution or organization, at minimum, accedes to any request submitted for access during business hours;*

(viii) a library serving free all residents of a community, district, State, or region; or

(ix) a historic light station as defined under section 305101(4) of title 54, including a historic light station conveyed under section 305103 of title 54, notwithstanding the number of hours that the historic light station is open to the public; or

(C) for purposes of providing services to veterans (as defined in section 101 of title 38), to an organization whose—

(i) membership comprises substantially veterans; and

(ii) representatives are recognized by the Secretary of Veterans Affairs under section 5902 of title 38.

(4) EXCEPTION.—This subsection does not apply to property transferred under subsection (d).

(d) DEPARTMENT OF DEFENSE PROPERTY.—

(1) DETERMINATION.—The Secretary of Defense shall determine whether surplus personal property under the control of the Department of Defense is usable and necessary for educational activities which are of special interest to the armed services, including maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools.

(2) PROPERTY USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is usable and necessary for educational activities which are of special interest to the armed services, the Secretary shall allocate the property for transfer by the Administrator to the appropriate state agency for distribution through donation to the educational activities.

(3) PROPERTY NOT USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is not usable and necessary for educational activities which are of special interest to the armed services, the property may be disposed of in accordance with subsection (c).

(e) STATE PLAN OF OPERATION.—

(1) IN GENERAL.—Before property may be transferred to a state agency, the State shall develop a detailed state plan of operation, in accordance with this subsection and with state law.

(2) PROCEDURE.—

(A) CONSIDERATION OF NEEDS AND RESOURCES.—In developing and implementing the state plan of operation, the relative needs and resources of all public agencies and other eligible institutions in the State shall be taken into consideration. The Administrator may consult with interested federal agencies to obtain their views concerning the administration and operation of this section.

(B) PUBLICATION AND PERIOD FOR COMMENT.—The state plan of operation, and any major amendment to the plan, may not be filed with the Administrator until 60 days after general notice of the proposed plan or amendment has been published and interested persons have been given at least 30 days to submit comments.

(C) CERTIFICATION.—The chief executive officer of the State shall certify and submit the state plan of operation to the Administrator.

(3) REQUIREMENTS.—

(A) STATE AGENCY.—The state plan of operation shall include adequate assurance that the state agency has—

(i) the necessary organizational and operational authority and capability including staff, facilities, and means and methods of financing; and

(ii) established procedures for accountability, internal and external audits, cooperative agreements, compliance and use reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(B) EQUITABLE DISTRIBUTION.—The state plan of operation shall provide for fair and equitable distribution of property in the State based on the relative needs and resources of interested public agencies and other eligible institutions in the State and their abilities to use the property.

(C) MANAGEMENT CONTROL AND ACCOUNTING SYSTEMS.—The state plan of operation shall require, for donable property transferred under this section, that the state agency use management control and accounting systems of the same type as systems required by state law for state-owned property. However, with approval from the chief executive officer of the State, the state agency may elect to use other management control and accounting systems that are effective to govern the use, inventory control, accountability, and disposal of property under this section.

(D) RETURN AND REDISTRIBUTION FOR NON-USE.—The state plan of operation shall require the state agency to provide for the return and redistribution of donable property if the property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for that purpose within one year of being placed in use.

(E) REQUEST BY RECIPIENT.—The state plan of operation shall require the state agency, to the extent practicable, to select property requested by a public agency or other eligible institution in the State and, if requested by the recipient, to arrange shipment of the property directly to the recipient.

(F) SERVICE CHARGES.—If the state agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing the charges shall be set out in the state plan of operation. The charges shall be fair and equitable and shall be based on services the state agency performs, including screening, packing, crating, removal, and transportation.

(G) TERMS, CONDITIONS, RESERVATIONS, AND RESTRICTIONS.—

(i) IN GENERAL.—The state plan of operation shall provide that the state agency—

(I) may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under subsection (c); and

(II) shall impose reasonable terms, conditions, reservations, and restrictions on the use of a passenger motor vehicle and any item of property having a unit acquisition cost of \$5,000 or more.

(ii) SPECIAL LIMITATIONS.—If the Administrator finds that an item has characteristics that require special handling or use limitations, the Administrator may impose appropriate conditions on the donation of the property.

(H) UNUSABLE PROPERTY.—

(i) DISPOSAL.—The state plan of operation shall provide that surplus personal property which the state agency determines cannot be used by eligible recipients shall be disposed of—

(I) subject to the disapproval of the Administrator within 30 days after notice to the Administrator, through transfer by the state agency to another state agency or through abandonment or destruction if the property has no commercial value or if the estimated cost of continued care and handling exceeds estimated proceeds from sale; or

(II) under this subtitle, on terms and conditions and in a manner the Administrator prescribes.

(ii) PROCEEDS FROM SALE.—Notwithstanding subchapter IV of this chapter and section 702 of this title, the Administrator, from the proceeds of sale of property described in subsection (b), may reimburse the

state agency for expenses that the Administrator considers appropriate for care and handling of the property.

(f) COOPERATIVE AGREEMENTS WITH STATE AGENCIES.—

(1) PARTIES TO THE AGREEMENT.—For purposes of carrying out this section, a cooperative agreement may be made between a state surplus property distribution agency designated under this section and—

(A) the Administrator;

(B) the Secretary of Education, for property transferred under section 550(c) of this title;

(C) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title; or

(D) the head of a federal agency designated by the Administrator, the Secretary of Education, or the Secretary of Health and Human Services.

(2) SHARED RESOURCES.—The cooperative agreement may provide that the property, facilities, personnel, or services of—

(A) a state agency may be used by a federal agency; and

(B) a federal agency may be made available to a state agency.

(3) REIMBURSEMENT.—The cooperative agreement may require payment or reimbursement for the use or provision of property, facilities, personnel, or services. Payment or reimbursement received from a state agency shall be credited to the fund or appropriation against which charges would otherwise be made.

(4) SURPLUS PROPERTY TRANSFERRED TO STATE AGENCY.—

(A) IN GENERAL.—Under the cooperative agreement, surplus property transferred to a state agency for distribution pursuant to subsection (c) may be retained by the state agency for use in performing its functions. Unless otherwise directed by the Administrator, title to the retained property vests in the state agency.

(B) CONDITIONS.—Retention of surplus property under this paragraph is subject to conditions that may be imposed by—

(i) the Administrator;

(ii) the Secretary of Education, for property transferred under section 550(c) of this title; or

(iii) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title.

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#### SUBCHAPTER IV—PROCEEDS FROM SALE OR TRANSFER

##### § 571. General rules for deposit and use of proceeds

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**SUBTITLE II—PUBLIC BUILDINGS AND WORKS**

\* \* \* \* \*

PART A—GENERAL

\* \* \* \* \*

**CHAPTER 33—ACQUISITION, CONSTRUCTION, AND  
ALTERATION**

\* \* \* \* \*

**§ 3307. Congressional approval of proposed projects**

(a) RESOLUTIONS REQUIRED BEFORE APPROPRIATIONS MAY BE MADE.—The following appropriations may be made only if the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives adopt resolutions approving the purpose for which the appropriation is made:

(1) An appropriation to construct, alter, or acquire any building to be used as a public building which involves a total expenditure in excess of \$1,500,000, so that the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for the buildings, except as provided in section 3305(b) of this title, is ensured.

(2) An appropriation to lease any space at an average annual rental in excess of \$1,500,000 for use for public purposes.

(3) An appropriation to alter any building, or part of the building, which is under lease by the Federal Government for use for a public purpose if the cost of the alteration will exceed \$750,000.

(b) TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.—To secure consideration for the approval referred to in subsection (a), the Administrator of General Services shall transmit to Congress a prospectus of the proposed facility, including—

(1) a brief description of the building to be constructed, altered, or acquired, or the space to be leased, under this chapter;

(2) the location of the building or space to be leased and an estimate of the maximum cost to the Government of the facility to be constructed, altered, or acquired, or the space to be leased;

(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings, especially those buildings that enhance the architectural, historical, social, cultural, and economic environment of the locality;

(4) with respect to any project for the construction, alteration, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at

a price commensurate with that to be afforded through the proposed action;

(5) a statement by the Administrator of the economic and other justifications for not acquiring a building identified to the Administrator under section 3303(c) of this title as suitable for the public building needs of the Government;

(6) a statement of rents and other housing costs currently being paid by the Government for federal agencies to be housed in the building to be constructed, altered, or acquired, or the space to be leased; **[and]**

(7) with respect to any prospectus for the construction, alteration, or acquisition of any building or space to be leased, an estimate of the future energy performance of the building or space and a specific description of the use of energy efficient and renewable energy systems, including photovoltaic systems, in carrying out the project**【.】**; *and*

(8) *a statement of how the proposed project is consistent with the standards and criteria developed under section 11(b) of the Federal Assets Sale and Transfer Act of 2016.*

(c) **INCREASE OF ESTIMATED MAXIMUM COST.**—The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to any percentage increase, as determined by the Administrator, in construction or alteration costs from the date the prospectus is transmitted to Congress. The increase authorized by this subsection may not exceed 10 percent of the estimated maximum cost.

(d) **RESCISSION OF APPROVAL.**—If an appropriation is not made within one year after the date a project for construction, alteration, or acquisition is approved under subsection (a), the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives by resolution may rescind its approval before an appropriation is made.

(e) **EMERGENCY LEASES BY THE ADMINISTRATOR.**—This section does not prevent the Administrator from entering into emergency leases during any period declared by the President to require emergency leasing authority. An emergency lease may not be for more than 180 days without approval of a prospectus for the lease in accordance with subsection (a).

(f) **MINIMUM PERFORMANCE REQUIREMENTS FOR LEASED SPACE.**—With respect to space to be leased, the Administrator shall include, to the maximum extent practicable, minimum performance requirements requiring energy efficiency and the use of renewable energy.

(g) **LIMITATION ON LEASING CERTAIN SPACE.**—

(1) **IN GENERAL.**—The Administrator may not lease space to accommodate any of the following if the average rental cost of leasing the space will exceed \$1,500,000:

(A) Computer and telecommunications operations.

(B) Secure or sensitive activities related to the national defense or security, except when it would be inappropriate to locate those activities in a public building or other facility identified with the Government.

(C) A permanent courtroom, judicial chamber, or administrative office for any United States court.

(2) EXCEPTION.—The Administrator may lease space with respect to which paragraph (1) applies if the Administrator—

(A) decides, for reasons set forth in writing, that leasing the space is necessary to meet requirements which cannot be met in public buildings; and

(B) submits the reasons to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(h) DOLLAR AMOUNT ADJUSTMENT.—The Administrator annually may adjust any dollar amount referred to in this section to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

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**MCKINNEY-VENTO HOMELESS ASSISTANCE ACT**

\* \* \* \* \*

**TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY**

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

(a) IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, request information from each landholding agency regarding Federal public buildings and other Federal real properties (including fixtures) that are excess property or surplus property or that are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall transmit such information to the Secretary. No later than 30 days after receiving such information, the Secretary shall identify which of those buildings and other properties are suitable for use to assist the homeless.

(b) AVAILABILITY OF PROPERTY.—(1) The Secretary shall promptly notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a). No later than 45 days after receipt of such a notice, the head of the appropriate landholding agency shall transmit to the Secretary the agency's response to property identifications contained in such notification, which shall include—

- (A) in the case of unutilized or underutilized property—
  - (i) a statement of intention to determine the property excess to the agency's needs;
  - (ii) a statement of intention to make the property available for use to assist the homeless; or



- (iii) a statement of the reasons (including a full explanation of the need) the property cannot be determined excess to the agency's needs or made available for use to assist the homeless; and
- (B) in the case of excess property—
  - (i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or
  - (ii) a statement that there is further and compelling Federal need for the property (including a full explanation of such need) and that, therefore, the property is not presently available for use to assist the homeless.
- (2) **[(A)]** All properties identified by the Secretary under subsection (a) shall be available for application—
  - [(i)]** (A) in the case of property other than surplus property, for use to assist the homeless in accordance with the provisions of this section; **[and]**
  - [(ii)]** (B) in the case of surplus property, for use to assist the homeless either in accordance with this section or as a public health use in accordance with paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k) (1) and (4))**[.]; and**
  - (C) in the case of surplus property, the provision of permanent housing with or without supportive services is an eligible use to assist the homeless under this section.*
- (3) The Secretary shall maintain a written public record of—
  - (A) the identification of buildings and other properties by the Secretary under this subsection and the reasons for such identifications; and
  - (B) the responses of landholding agencies to such identifications.
- (c) PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall publish **[in the Federal Register]** *on the Web site of the Department of Housing and Urban Development or the General Services Administration*—
  - (i) a list of all properties reviewed by the Secretary under subsection (a); and
  - (ii) a list of all properties that are available under subsection (b)(2) for application for use to assist the homeless.
- (B) Each publication of properties shall include a description and the location of each property (including the address and zip code) and the current classification of each property as unutilized, underutilized, excess property, or surplus property.
- (C) The Secretary shall make available to the public upon request all information in the possession of the Department of Housing and Urban Development (other than valuation information), regardless of format, about all properties reviewed and not identified as being suitable for use to assist the homeless, including the reasons such properties were not so identified.
- (D) The Secretary shall publish separately, on an annual basis, all properties identified as being suitable for use to assist the homeless, but reported to be unavailable, and the reasons such properties were unavailable.

(2)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the list of available properties published under paragraph (1)(A)(ii) to the United States Interagency Council on Homelessness. The Council shall immediately distribute to all State and regional homeless coordinators area-relevant portions of the list.

(B) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as are necessary to ensure the widest possible dissemination of the information on such list.

(C) The Secretary shall establish a toll-free number to provide the public with specific information about properties on such list.

(3) The Secretary shall make available to the public upon request all information (other than valuation information) regardless of format in the possession of the Department of Housing and Urban Development about the properties published under paragraph (1)(A), including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

(4)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status and the current classification of each property controlled by the agency, that—

(i) was included in a list published in that year by the Secretary under paragraph (1)(A)(ii); and

(ii) remains available for application for use to assist the homeless or has become available for application during that year.

(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year and the current classification of the properties.

(C) For purposes of subparagraph (A), property shall not be considered to remain available for application for use to assist the homeless after the 60-day holding period provided under subsection (d) if—

(i) an application for or written expression of interest in the property is made under any law for use of the property for any purpose; or

(ii) the Administrator receives a bona fide offer to purchase the property or advertises for the sale of the property by public auction.

(d) HOLDING PERIOD.—(1) Properties published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless shall not be available for any other purpose for a **period of 60 days** *period of 30 days* beginning on the date of such publication.

(2) If written notice of intent to apply for such a property for use to assist the homeless is received by the Secretary of Health and Human Services within the **60-day period** *30-day period* described under paragraph (1), such property may not be made available for any other purpose until the date the Secretary of Health and Human Services or other appropriate landholding agency has completed action on the application submitted under subsection (e) with respect to that written notice of intent.

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

(4)(A) Written notice of intent to apply for a property published under subsection (c)(1)(A)(ii) may be filed at any time after the **60-day period** *30-day period* described in paragraph (1) has expired. In such case, an application submitted pursuant to the notice may be approved for disposal for use to assist the homeless only if the property remains available for application for use to assist the homeless. If the property remains available, the use to assist the homeless shall be given priority of consideration over other competing disposal opportunities under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), except as provided in subsection (f)(3)(A).

(B) Surplus property for which an application has been approved shall be assigned promptly to the Secretary of Health and Human Services for disposition in accordance with and subject to subsection (f).

(e) APPLICATION FOR PROPERTY.—(1) A representative of the homeless may submit an application to the Secretary of Health and Human Services for any property that is published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless.

(2)(A) No later than **90 days** *75 days* after the submission of written notice of intent to apply for a property, an applicant shall submit **a complete application** *an initial application* to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the appropriate landholding agency, grant reasonable extensions.

(B) *An initial application shall set forth—*

- (i) the services that will be offered;*
- (ii) the need for the services; and*
- (iii) the experience of the applicant that demonstrates the ability to provide the services.*

(3) No later than **25 days** after receipt of a completed application **10 days after receipt of an initial application**, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services shall maintain a written public record of all actions taken in response to an application.

(4) *If the Secretary of Health and Human Services approves an initial application, the applicant has 45 days in which to provide a final application that sets forth a reasonable plan to finance the approved program.*

(5) *No later than 15 days after receipt of the final application, the Secretary of Health and Human Services shall review, make a final determination, and complete all actions on the final application. The Secretary of Health and Human Services shall maintain a public record of all actions taken in response to an application.*

(f) MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.—(1) Subject to the provisions of this subsection, property for which the Secretary of Health and Human Services has approved an application under subsection (e) shall be made promptly [available by] *available, at the applicant's discretion, by permit or lease, or by deed as a public health use under paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k) (1) and (4)), to the representative of the homeless that submitted the application.*

(2) Unutilized or underutilized property that is the subject of an agency's statement of intention under subsection (b)(1)(A)(ii) shall be made promptly available by the appropriate landholding agency to the approved applicant by lease or permit for a term of not less than 1 year, unless the applicant requests a shorter term.

(3)(A) In disposing of surplus property by deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority of consideration to uses to assist the homeless, unless the Administrator or the Secretary of Health and Human Services determines that a competing request for the property under section 203(k) of such Act is so meritorious and compelling as to outweigh the needs of the homeless.

(B) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (A), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisfied by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

(4) For any property made available by lease to a representative of the homeless before the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey such property by deed to the representative in accordance with, and subject to the requirements of, section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.

(g) RECORDS.—The Secretary shall maintain a written public record of—

(1) the reasons for determinations of the Secretary under this section that property is suitable or unsuitable for use to assist the homeless; and

(2) the responses of landholding agencies under subsection (b)(1).

(h) APPLICABILITY TO PROPERTY UNDER BASE CLOSURE PROCESS.—(1) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part

A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) after the date of the enactment of this subsection.

(2) For provisions relating to the use to assist the homeless of buildings and property located at certain military installations approved for closure under such Act, or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), before such date, see section 2(e) of Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

(i) DEFINITIONS.—For purposes of this section—

(1) the term “Administrator” means the Administrator of General Services;

(2) each of the terms “excess property” and “surplus property” has the meaning given that term under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472);

(3) the term “landholding agency” means a Federal department or agency with statutory authority to control real property;

(4) the term “representative of the homeless” means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and

(5) the term “Secretary” means the Secretary of Housing and Urban Development, except as otherwise provided.

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