



Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington DC 20515

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May 10, 2021

**SUMMARY OF SUBJECT MATTER**

**TO:** Members, Subcommittee on Economic Development, Public Buildings, and  
Emergency Management  
**FROM:** Staff, Subcommittee on Economic Development, Public Buildings, and Emergency  
Management  
**RE:** Subcommittee Hearing on “Federal Real Estate Post-COVID-19  
Part One: A View from The Private Sector”

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**PURPOSE**

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Thursday, May 13, 2021, at 2:00 p.m. EDT in 2167 Rayburn House Office Building and virtually via Zoom to hold a hearing titled, “Federal Real Estate Post-COVID-19: Part One: A View from the Private Sector.” At the hearing, Members will receive testimony from private sector real estate industry professionals.

**BACKGROUND**

The General Services Administration (GSA) provides workspace for 1.2 million federal employees across more than 50 federal agencies.<sup>1</sup> GSA’s Public Building Service (PBS) owns over 1,500 federal buildings.<sup>2</sup> The average age of these buildings is nearly 47 years old.<sup>3</sup> Approximately 53 percent of PBS’s portfolio is over 50 years old and 28 percent is over 75 years old.<sup>4</sup>

PBS leases approximately 8,100 office buildings, courthouses, land ports of entry, data processing centers, laboratories, and specialized space around the country for federal agencies.<sup>5</sup>

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<sup>1</sup> <https://crsreports.congress.gov/product/pdf/R/R46410>.

<sup>2</sup> <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>

<sup>3</sup> <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>

<sup>4</sup> <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>

<sup>5</sup> <https://www.gsa.gov/real-estate/gsa-properties>

During the period from FY 2019 through FY 2023, 60 percent of PBS leases will expire.<sup>6</sup> GSA's PBS portfolio is projected to include 183.4 million square feet of owned space and 183.5 million square feet of leased space in FY 2021.<sup>7</sup>

PBS and its activities are funded through GSA's Federal Buildings Fund (FBF).<sup>8</sup> GSA enters into occupancy agreements with its federal agency tenants and charges commercially equivalent rent.<sup>9</sup> Those rents fund the FBF.<sup>10</sup> In turn, the FBF funds the operations of PBS, new construction, repairs and alterations, and payments for commercial leases. The availability of funds in the FBF are subject to annual appropriations.<sup>11</sup> In FY21, the availability of funds in the *Consolidated Appropriations Act, 2021* is \$9.065 billion.<sup>12</sup> This amount includes:

- \$5.752 billion for commercial lease payments
- \$2.533 billion for building and PBS operations
- \$576.6 million for Repairs and alterations
- \$230 million for new construction and acquisition

### **GSA's PROCESS**

The Administrator of General Services is authorized by 40 U.S.C. § 585 to enter into lease agreements (of no more than 20 years) to secure space for federal agencies.<sup>13</sup> GSA also acquires space through new construction or purchase.<sup>14</sup>

GSA's leasing process begins with the development of space requirements. Typically, GSA begins reaching out to expiring lease tenants approximately 24 months in advance of the expiration to determine whether a continuing need exists, and to notify the agency of the need to provide GSA with a request for space and begin development of the program of requirements. After the space requirements are developed and GSA agrees with and finalizes the documentation for the lease, if the lease cost is below the "prospectus" threshold (currently at \$3.095 million), GSA begins the process of lease acquisition.<sup>15</sup> If the lease costs is above the prospectus level, GSA develops a prospectus pursuant to 40 U.S.C. § 3307 that includes details on the purpose, need, size, scope of the leased space.<sup>16</sup> The prospectus is submitted to the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works. Both Committees must approve via resolution each prospectus prior to GSA executing the lease.<sup>17</sup>

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<sup>6</sup> <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>

<sup>7</sup> <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>

<sup>8</sup> 40 U.S.C. § 592

<sup>9</sup> 40 U.S.C. § 586

<sup>10</sup> 40 U.S.C. § 592

<sup>11</sup> 40 U.S.C. § 3307

<sup>12</sup> Consolidated Appropriations Act, 2021, Public Law No. 116-260

<sup>13</sup> [https://www.gsa.gov/cdnstatic/LDG-CHAPTER\\_INTRODUCTION-FINAL\\_9-30-11final\\_508C.pdf](https://www.gsa.gov/cdnstatic/LDG-CHAPTER_INTRODUCTION-FINAL_9-30-11final_508C.pdf)

<sup>14</sup> 40 U.S.C. §§ 3304, 3305

<sup>15</sup> <https://www.gsa.gov/real-estate/design-construction/gsa-annual-prospectus-thresholds>. FY22 threshold will increase to \$3.375 million, Letter dated January 4, 2021 from the General Services Administration to the Committee on Transportation and Infrastructure.

<sup>16</sup> 40 U.S.C. § 3307.

<sup>17</sup> Id.

Similarly, for new construction, alteration or purchase projects, GSA works with its tenant agencies on a program of requirements and Committee action on a prospectus is required if the costs are above the prospectus threshold.

### **FEDERAL TELEWORK POLICIES AND COVID-19**

The *Telework Enhancement Act of 2010* directed the Office of Personnel Management (OPM) to provide an annual report to Congress addressing the telework programs of each Executive agency (5 U.S.C. § 6506).<sup>18</sup> The most recent report—the Fiscal Year 2019 Status of Telework in the Federal Government Report to Congress—documented the last Governmentwide telework data collection effort prior to the 2020 COVID-19 pandemic, and does not examine the increase in telework necessitated by the pandemic.<sup>19</sup>

OPM’s 2020 Federal Employee Viewpoint Survey found that 59% of employees teleworked every workday during the peak of the pandemic compared to 3% who teleworked every workday before the pandemic.<sup>20</sup> The report opined that “changes in management practices and policies in responses to the pandemic have driven widespread speculation about how workplaces might look and function post-pandemic.”<sup>21</sup>

### **EXECUTIVE ORDER ON PROTECTING THE FEDERAL WORKFORCE AND REQUIRING MASK WEARING**

On January 20, 2021, President Biden issued an Executive Order (EO) titled Protecting the Federal Workforce and Requiring Mask-Wearing.<sup>22</sup> Accompanying the EO was workplace safety guidance for executive departments and agencies, including the following directives:<sup>23</sup>

- **Occupancy:** No federal workplace should operate above 25% of normal occupancy standards at any given time during periods of high community prevalence or transmission. The agency’s COVID-19 Coordination Team should develop a staffing plan that outlines which employees will work on-site full-time, on-site occasionally, or fully remote.
- **Physical Distancing:** Individuals should maintain distance of at least six feet from others, consistent with CDC guidelines, in offices, conference rooms, and all other communal spaces. Occupational health professionals in each agency should assess elevators to determine safe occupancy. Individuals must wear masks in elevators and in elevator lobbies.
- **Environmental Cleaning:** Enhanced cleaning and physical barriers such as plexiglass shields may be provided.

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<sup>18</sup> <https://www.telework.gov/reports-studies/reports-to-congress/2020-report-to-congress.pdf>

<sup>19</sup> <https://www.telework.gov/reports-studies/reports-to-congress/2020-report-to-congress.pdf>

<sup>20</sup> <https://www.opm.gov/fevs/reports/governmentwide-reports/governmentwide-management-report/governmentwide-report/2020/2020-governmentwide-management-report.pdf>

<sup>21</sup> <https://www.opm.gov/fevs/reports/governmentwide-reports/governmentwide-management-report/governmentwide-report/2020/2020-governmentwide-management-report.pdf>

<sup>22</sup> <https://www.whitehouse.gov/wp-content/uploads/2021/01/M-21-15.pdf>

<sup>23</sup> <https://www.whitehouse.gov/wp-content/uploads/2021/01/M-21-15.pdf>

- **Hygiene:** Hand sanitizer stations are to be available at the building entrance and throughout workspaces. Indoor ventilation will be optimized to increase the proportion of outdoor ventilation, improve filtration, and reduce or eliminate recirculation. Phones, computers, kitchen items, and other office equipment must be disinfected by users.
- **Visitors:** The number of visitors to the federal workplace should be minimized. Visitors should be screened. Visitors are required to wear masks in federal or federally leased facilities.
- **Staggered Work Times and Cohort-Based Scheduling:** Agencies should encourage staggered work times to reduce density, minimize traffic volume in elevators, and avoid crowds during commuting.

### **CENTERS FOR DISEASE CONTROL COVID-19 EMPLOYER INFORMATION FOR OFFICE BUILDINGS**

Throughout the COVID-19 pandemic the Centers for Disease Control (CDC) has provided guidance to federal agencies and the public on Covid-19 preparedness and response. On April 7, 2021, the CDC updated its guidance on office buildings and recommended the following<sup>24</sup>:

- Seats and workstations should be adjusted to maintain social distancing of 6 feet between employees.
- Employees should be separated by physical barriers where social distancing is not an option.
- High-touch communal items should be replaced with pre-packaged, single-serving items.
- Staff should be encouraged to bring their own water to minimize use and touching of water fountains.
- No-touch water fountains should be installed.
- Building ventilation should be improved by increasing the percentage of outdoor air, opening windows, improving air filtration, using portable high-efficiency particulate air (HEPA) fan/filtration systems, and ensuring exhaust fans are functional.
- High-touch surfaces that are frequently touched by multiple people, such as door handles, desks, light switches, faucets, toilets, workstations, keyboards, telephones, handrails, printer/copiers, and drinking fountains should be cleaned daily.
- Instructions on hygiene and social distancing should be posted at building entrances.

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<sup>24</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/office-buildings.html>

## **GSA's WORKPLACE 2030**

Early in 2020, as a result of COVID-19, GSA began a process to consult with its key tenant agencies and the private sector to identify the impacts and trends on federal office space which GSA developed into its Workplace (WP) 2030 initiative.<sup>25</sup> The initiative examined the potential of increased teleworking beyond COVID, the opportunities it may present to improve efficiency and reduce space needs and costs, and the potential savings to the taxpayer.<sup>26</sup>

### **PROPOSED ALTERNATIVES TO ADDRESS FUNDING CHALLENGES**

Since 2011, the amount of funds available in the FBF for new construction and repairs and alternations has decreased below receipts received by GSA from its tenant agencies.<sup>27</sup> In addition, reductions, consolidations, and reconfigurations of space to improve efficiency and decrease real estate costs often require capital upfront to execute such plans.<sup>28</sup> Accordingly, a number of solutions have been proposed for alternative ways of funding projects, including public-private partnerships (P3s), discounted purchase options, and the creation of a new fund outside of GSA's FBF. In addition, Congress provided pilot authority in the *Federal Assets Sale and Transfer Act* (FASTA) in 2016 to reform the disposal of unneeded assets.<sup>29</sup>

While GSA has the legal authorities to carry out public-private partnerships (P3s) and discounted purchase options, the Office of Management and Budget's (OMB) interpretation of budgetary scoring rules effectively prohibits GSA from using these alternatives.<sup>30</sup> Specifically, OMB's interpretation of the budgetary scoring rules effectively would require GSA to have the full amount of budgetary authority for a project upfront.<sup>31</sup>

OMB's solution has been proposed in both President Biden's American Jobs Plan<sup>32</sup> and President Trump's Fiscal Year 2021 budget submission to Congress which included the establishment of a new revolving fund—the Federal Capital Revolving Fund (FCRF)—to finance the construction of new federally owned non-defense buildings.<sup>33</sup>

This new fund would be in addition to GSA's FBF, and would finance federally owned non-defense buildings and classify funding for purchases/construction as mandatory. After an initial \$10 billion mandatory appropriation to seed the fund, the FCRF would be allowed to transfer up to \$2.5 billion annually to Chief Financial Officers Act agencies that wish to make capital acquisitions (construction, renovations, or purchases) and therefore keep those capital purchases from eating up the entirety of that year's fiscal year appropriation.<sup>34</sup> Appropriators would decide which projects could be funded, and agencies would pay back the fund in annual increments over 15 years through

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<sup>25</sup> Workplace 2030: Envisioning the Future of Federal Work, General Services Administration

<sup>26</sup> Id.

<sup>27</sup> See appropriations acts beginning in FY2011

<sup>28</sup> See, for example, GSA's Consolidations Activities Program, Prospectus No. PCA-0001-MU21

<sup>29</sup> Public Law No. 114-287 as amended by Public Law No. 114-318

<sup>30</sup> OMB Circular A-11, Appendix B

<sup>31</sup> Id.

<sup>32</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan/>

<sup>33</sup> <https://www.gsa.gov/about-us/newsroom/news-releases/president-trumps-fiscal-year-2020-budget-proposes-focus-on-innovation-physical-infrastructure-and-efficient-and-effective-government>

<sup>34</sup> <https://www.govinfo.gov/content/pkg/STATUTE-104/pdf/STATUTE-104-Pg2838.pdf>

regular appropriations. While GSA would administer this fund, payback would go to the new fund and not to GSA's FBF. It is unclear how this new fund would impact the FBF.

### **CONCLUSION**

As the COVID-19 pandemic enters its second year, federal agencies and the private sector are contemplating how, when, or if to bring employees back into office space. It would be beneficial for Members of Congress to get the private sector's perspective on post-COVID health and safety trends, capacity and space design challenges, new technologies, environmental and well-building goals, and opportunities for long-term cost savings.

### **WITNESS LIST**

#### **Ms. Kay Sargent**

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