



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

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Chairman

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**Sam Graves**  
Ranking Member

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November 2, 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:** Hearing on “The General Services Administration’s Priorities for 2021 and Beyond.”

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**Purpose**

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Tuesday, November 2, 2021, at 10:00 am EDT in 2167 Rayburn House Office Building and virtually via Zoom to hold a hearing titled, “The General Services Administration’s Priorities for 2021 and Beyond.” At the hearing, Members will receive testimony from the Administrator of General Services and the General Services Administration’s Public Buildings Commissioner.

**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> Approximately 53 percent of PBS’s portfolio is over 50 years old, and 28 percent is over 75 years old.<sup>3</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>

GSA's 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>4</sup> During the period from fiscal year (FY) 2019 through FY 2023, 60 percent of PBS leases will expire.<sup>5</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>6</sup>

### **The Federal Buildings Fund**

GSA's PBS and its activities are funded through GSA's Federal Buildings Fund (FBF).<sup>7</sup> GSA enters into occupancy agreements with its federal agency tenants and charges commercially equivalent rent.<sup>8</sup> Those rents fund the FBF.<sup>9</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>10</sup>

GSA has raised concerns that because Congress has not appropriated \$10.3 billion in FBF rent collections over the last ten years, "GSA is collecting commercially equivalent rent from its occupant agencies but is precluded from reinvesting all of these funds in the aging federal facilities occupied by those rent-paying agencies."<sup>11</sup>

GSA's FY 22 budget requested:

"...positive net budget authority to adequately preserve and invest in the Federal Government's real estate assets. Providing positive net budget authority in FY 2022 will allow GSA to begin addressing the liabilities resulting from the \$10.3 billion in unappropriated FBF [New Obligational Authority] (NOA) over the last decade. Reduced budget authority impedes PBS's ability to fund critical repairs and improvements to the Federal inventory, resulting in avoidable increased costs due to delayed repairs and missed opportunities to consolidate space."<sup>12</sup>

### **GSA's Process**

The Administrator of General Services (GSA) 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>

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<sup>4</sup> <https://www.gsa.gov/real-estate/gsa-properties>

<sup>5</sup> <https://www.gsa.gov/cdnstatic/GSA%20FY%202021%20Congressional%20Justification.pdf>

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

<sup>7</sup> 40 U.S.C. § 592

<sup>8</sup> 40 U.S.C. § 586

<sup>9</sup> 40 U.S.C. § 592

<sup>10</sup> 40 U.S.C. § 3307

<sup>11</sup> [https://www.gsa.gov/cdnstatic/02\\_FY\\_2022\\_CJ\\_FBF\\_Narrative\\_Final\\_2.pdf](https://www.gsa.gov/cdnstatic/02_FY_2022_CJ_FBF_Narrative_Final_2.pdf) FBF-11

<sup>12</sup> Id.

<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

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 in the House to the Committee on Transportation and Infrastructure and in the Senate to the Committee on Environment and Public Works. Both committees must approve via resolution each prospectus prior to GSA executing the lease.<sup>17</sup>

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.

### **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>18</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>19</sup> Given this, 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.

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>20</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 up front.<sup>21</sup>

### **GSA Climate Resilience Strategy**

President Biden's Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, directed federal agencies to develop a climate resilience strategy.<sup>22</sup> In response, GSA published a

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<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.

<sup>18</sup> See appropriations acts beginning in FY2011

<sup>19</sup> See, for example, GSA's Consolidations Activities Program, Prospectus No. PCA-0001-MU21

<sup>20</sup> OMB Circular A-11, Appendix B

<sup>21</sup> Id.

<sup>22</sup> 86 FR 7619, pg. 7619-7633

Climate Change Risk Management Plan in September 2021.<sup>23</sup> The plan identifies GSA’s vulnerabilities to climate change and priorities for action.<sup>24</sup>

GSA guidelines require it only lease properties outside of floodplains to mitigate the risk posed to its property.<sup>25</sup> As floodplain maps are updated to account for climate change, GSA anticipates the availability of suitable leasing space will be restricted and higher rental costs more expensive as a result.<sup>26</sup> GSA will also incorporate updated floodplain data into its Building Assessment Tool Survey to ensure owned property has service life of thirty years at minimum.<sup>27</sup>

Historic buildings within GSA’s portfolio are vulnerable to climate change and natural disasters.<sup>28</sup> Historic buildings were constructed using flood maps that do not reflect updates to 100-year and 500-year flood risks.<sup>29</sup> The age and architecture of the buildings limit opportunities to make modifications that enhance resilience.<sup>30</sup> Additionally, GSA’s repair backlog has left properties within the federal real estate portfolio at greater risk to extreme weather events.<sup>31</sup>

In September 2021, the Government Accountability Office (GAO) noted that the federal government has not made measurable progress to reduce its fiscal exposure to climate change.<sup>32</sup> GSA filed a prospectus (PCR-0001-MU22) requesting one-hundred million dollars to make investments that will mitigate their financial losses in the long-term.<sup>33</sup> The proposed use of these funds is to, “conduct formal agency-wide vulnerability assessments to align with the climate science from the latest National Climate Assessment (NCA) and to fortify agency risk management efforts.”<sup>34</sup> Funds will also be used to execute projects which enhance GSA’s access and use of data to determine vulnerabilities, update agency guidelines to account for climate change, train agency professionals to consider climate vulnerability, identify and map at-risk assets, and execute capital projects that new data and vulnerability assessments determine to be the highest priority.<sup>35</sup>

### **The Federal Assets Sale and Transfer Act**

The *Federal Assets Sale and Transfer Act of 2016* (FASTA) (P.L. 114-287) established a new process for disposing of unneeded federal space. Under *FASTA*, federal agencies (except for the Department of Defense, the National Park Service, Coast Guard properties, properties located

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<sup>23</sup> GSA. Climate Change Risk Management Plan. September 2021. Available at: [Climate Change Risk Management Plan \(sustainability.gov\)](https://www.gsa.gov/transaction/sustainability/Climate-Change-Risk-Management-Plan)

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id.

<sup>27</sup> Id.

<sup>28</sup> Id.

<sup>29</sup> GSA. Climate Change Risk Management Plan. September 2021. Available at: [Climate Change Risk Management Plan \(sustainability.gov\)](https://www.gsa.gov/transaction/sustainability/Climate-Change-Risk-Management-Plan)

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> GAO. *Federal Real Property Asset Management: Additional Direction in Government-Wide Guidance Could Enhance Natural Disaster Resilience*. September 2021. Available at: [GAO-21-596, Accessible Version, FEDERAL REAL PROPERTY ASSET MANAGEMENT: Additional Direction in Government-Wide Guidance Could Enhance Natural Disaster Resilience](https://www.gao.gov/assets/21/596/21596_accessible_version.pdf)

<sup>33</sup> GSA. *Prospectus-Alteration Climate and Resilience Program Various Buildings* (PCR-0001-MU22).

<sup>34</sup> Id.

<sup>35</sup> Id.

outside the United States that are operated or maintained by the Department of State or the Agency for International Development, properties controlled by Indian and Native Alaskan tribes, the USPS, and the Tennessee Valley Authority<sup>36</sup>) are required to develop a list of disposal recommendations, which could include the sale, transfer, conveyance, consolidation, or outlease of any unneeded space.<sup>37</sup>

The disposal of unneeded federal real property has been a long-standing management challenge for GSA and the federal government.<sup>38</sup> In 2011, the Committee on Transportation and Infrastructure and the Obama Administration both proposed creating an independent board of experts to develop recommendations on specific properties to be disposed of or redeveloped for better use.<sup>39</sup> The Committee, on a bipartisan basis, worked on crafting legislation culminating in the passage of FASTA in 2016.<sup>40</sup> FASTA also made other changes in law, including codifying and clarifying requirements for the Federal Real Property Profile (FRPP) which is the government's database detailing all federal real estate assets.<sup>41</sup>

The recommendations of the board pursuant to *FASTA* are submitted to the GSA Administrator, the OMB Director, and the newly established Public Buildings Reform Board (PBRB), an independent agency established by *FASTA* to identify opportunities for the federal government to significantly reduce its inventory of civilian real property. The revised list of recommendations is then vetted by the Public Buildings Reform Board and returned to the OMB Director for final approval or disapproval.<sup>42</sup>

If the OMB Director approves a set of board recommendations, federal agencies must begin implementation of all recommendations within two years from the date Congress received them, and complete implementation within six years.<sup>43</sup> Agencies must work in consultation with GSA, and within their existing authorities to implement board recommendations, although they may contract with real estate companies for assistance.<sup>44</sup> The OMB director has the authority to exclude a property from the board's recommendations if the director determines the property is suitable for use as a public park or recreation area by a state or local government.<sup>45</sup>

In addition, several sections of the U.S. Code that pertain to real and personal property conveyances, particularly those for public benefit, would not apply to recommended disposals. The *McKinney-Vento Homeless Assistance Act* still applies to properties that are included in the approved set of recommendations but which the HUD Secretary determines are suitable for use providing services to the homeless.<sup>46</sup>

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<sup>36</sup> <https://www.crs.gov/Reports/R44999?source=search&guid=ca749e38e3594abfba82839c8844c6c&index=0>

<sup>37</sup> See P.L. 114-287.

<sup>38</sup> <https://www.gao.gov/highrisk/managing-federal-real-property>

<sup>39</sup> See Hearing on "Sitting on Our Assets: Cutting Spending and Private Redevelopment of Underperforming Buildings," Subcommittee on Economic Development, Public Buildings, and Emergency Management, February 10, 2011 and Section 735, President's Budget Request for Fiscal Year 2012.

<sup>40</sup> See H.R. 1734, 112<sup>th</sup> Congress; H.R. 695, 113<sup>th</sup> Congress; H.R. 4465, 114<sup>th</sup> Congress.

<sup>41</sup> <https://www.gsa.gov/policy-regulations/policy/real-property-policy/asset-management/federal-real-property-profile-frpp/frpp-frequently-asked-questions>

<sup>42</sup> <https://www.crsreports.congress.gov/product/pdf/R/R44999>

<sup>43</sup> P.L. 114-287.

<sup>44</sup> Id.

<sup>45</sup> <https://www.crs.gov/Reports/R44999?source=search&guid=ca749e38e3594abfba82839c8844c6c&index=0>

<sup>46</sup> <https://www.crs.gov/Reports/R44999?source=search&guid=ca749e38e3594abfba82839c8844c6c&index=0>

*FASTA* was enacted at the end of the Obama administration and its implementation during a transition of administrations was delayed and, as a result, Congress passed legislation extending the term of the PBRB to allow for additional time for such transition.<sup>47</sup> At the same time, Congress also passed legislation to provide GSA more flexibility in leasing back property to facilitate certain sales.<sup>48</sup> However, according to a recent New York Times article, there has been challenges to the implementation of *FASTA*. As the article notes:

“...[i]t took three years for the five existing board members to be sworn in, and two empty seats remain, including that of the chairman. The Government Accountability Office reported that the board did not adequately document how it went about selecting properties for sale. The board was sued when it sought to sell a Seattle building that is a repository of important tribal records. The General Services Administration, the agency that disposes of most federal properties, has flouted the board’s advice.”<sup>49</sup>

### **GSA’s Workplace 2030**

Early in 2020, because 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>50</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>51</sup>

### **Performance Goals**

According to GSA’s 2020 Agency Financial Report,

“GSA is meeting its targets to negotiate leases below average market rates, reduce energy costs, and deliver capital projects on schedule and on budget. GSA’s Lease Cost Avoidance Plan, which was implemented in FY 2018 and focuses on renegotiating longer leases where favorable terms can be obtained, continues to yield favorable results; in FY 2020, aggregate lease costs are 12.6 percent below average market value. GSA also realized a sharp reduction in energy use in FY 2020 that can be attributed to warmer winter temperatures and reduced building occupancy due to COVID-19.

GSA will likely miss its performance targets for vacancy rates and operating costs associated with cleaning and maintenance. Vacant space in inventory remains slightly higher than the target of 3 percent, due in part to the Reduce the Footprint and workspace consolidation initiatives, which can result in GSA holding on to vacant space in order to implement

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<sup>47</sup> P.L. 115-437.

<sup>48</sup> P.L. 115-438.

<sup>49</sup> <https://www.nytimes.com/2021/09/14/business/sale-surplus-federal-buildings.html>

<sup>50</sup> Workplace 2030: Envisioning the Future of Federal Work, General Services Administration

<sup>51</sup> Id.

longer-term strategic plans with customers. While GSA is slightly above its target, GSA's vacant space rate still compares favorably to the private sector.

Cleaning and maintenance costs fell short of the 80 percent target for staying within market range. GSA is undertaking a nationwide effort to examine the methods and tools used to procure building maintenance and custodial services in order to lower operating costs without affecting service levels to GSA's federal tenants.

GSA realized an increase of 1.6 million rentable square feet (RSF) in FY 2020. In FY 2020, GSA continued to carry 1.9 million RSF of temporary leased space associated with the 2020 Census. In addition, the federally-owned inventory saw increases from the addition of the Department of Transportation headquarters in Washington DC (1.5 million RSF), the transfer of 11 assets totaling 600 thousand RSF from the Department of State for their National Foreign Affairs Training Center, and the activation of building modernization projects.”<sup>52</sup>

#### **Witness List**

**The Honorable Robin Carnahan**  
Administrator  
General Services Administration

**Ms. Nina Albert**  
Commissioner  
Public Buildings Service  
General Services Administration

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<sup>52</sup> <https://www.gsa.gov/reference/reports/budget-performance/annual-reports/2020-agency-financial-report/managements-discussion-and-analysis/performance-summary>